

ADMINISTRATIVE PROCEDURES

OF

**THE FAIRFAX COUNTY
GENERAL DISTRICT COURT**

GOVERNING

**COURT PRACTICE AND
PROCEDURE**

Effective January 2001

QUICK REFERENCE

FREQUENTLY REQUESTED PHONE NUMBERS AND ADDRESSES

Fairfax County General District Court Mailing Address:

Fairfax County General District Court
Attn: _____ Division
4110 Chain Bridge Rd.
Fairfax, VA 22030

Fairfax County General District Court's Phone Numbers:

(703) 246-2364 (Traffic Prepayment Information Recording)
(703) 246-2153 (Judges' Chambers)
(703) 691-7320 (Court's Automated Information Line for all divisions)
then press:
2, 3 for **Traffic**
4, 1 for **Civil**
4, 2 for **Small Claims**
4, 3 for **Criminal**
4, 5 for **Court Services**

Fairfax County Sheriff's Office:

(703) 246-3227

Police Department's Court Liaison:

(703) 246-2218

Fairfax County Commonwealth's Attorney's Office:

Commonwealth's Attorney's Office
4110 Chain Bridge Rd., Room 123
Fairfax, VA 22030
(703) 246-2776

Herndon Town Prosecutor:

Manual Capsalis
Cohen, Gettings & Dunham
2200 Wilson Blvd., Ste. 800
Arlington, VA 22201
(703) 525-2260

Vienna Prosecutor:

David Hall
10513 Judicial Dr.
Suite 100
Fairfax, VA 22030
(703) 691-4100

Fairfax CITY General District Court:

10455 Armstrong St.
Fairfax, VA 22030
(703) 385-7866

Fairfax City Prosecutor:

Brett Kassabian
4201 Annandale Rd.
Annandale, VA 22003
(703) 750-3622

**ADMINISTRATIVE PROCEDURES
OF THE FAIRFAX COUNTY GENERAL DISTRICT COURT
Table of Contents**

FREQUENTLY REQUESTED PHONE NUMBERS AND ADDRESSES	2
TABLE OF CONTENTS	3
OVERVIEW.....	7
GENERAL INFORMATION AND PROCEDURES	8
1:1 LOCATION AND OFFICE HOURS OF COURTS IN 19TH JUDICIAL DISTRICT.....	8
1:2 SCHEDULE OF COURT SESSIONS	9
1:3 COURT CLOSINGS	10
1:4 SPECIAL ADMINISTRATIVE FUNCTIONS OF JUDGES.....	10
1:5 FOREIGN COUNSEL	11
1:6 FAX POLICY.....	11
1:7 COURT INFORMATION LINE – 703-691-7320.....	11
CIVIL COURT PRACTICE AND PROCEDURE.....	13
2:1 FILING CIVIL ACTION	13
2:2 LIMITATION ON NUMBER OF CASES.....	13
2:3 COUNSEL	13
2:4 CORPORATIONS AND PARTNERSHIPS	14
2:5 FEES	14
2:6 SERVICE OF PROCESS.....	14
2:7 SERVICE BY PRIVATE PROCESS.....	15
2:8 CONTINUANCES	15
2:9 REMOVAL OF CASES TO THE CIRCUIT COURT	16
2:10 DISMISSAL OF PENDING CASES.....	16
2:11 DOCKET CALL	16
2:12 CONTESTED CASES	17
2:13 REQUESTS FOR SUBPOENAS FOR WITNESSES AND RECORDS	17
2:14 REQUIREMENTS FOR FILING OF BILL OF PARTICULARS AND GROUNDS OF DEFENSE	17
2:15 INTERPRETERS	18
2:16 MOTIONS, DEMURRERS, PLEAS IN ABATEMENT.....	18
2:17 JUDGMENT ON THE AFFIDAVIT	18
2:18 EX PARTE PROOF.....	18
2:19 DEFAULT JUDGMENT IN MOTOR VEHICLE DAMAGE CASES	19
2:20 REQUESTS FOR ATTORNEY'S FEES AND INTEREST	19
2:21 PRODUCTION OF WRITTEN AGREEMENT.....	19
2:22 INTERROGATORY SUMMONS.....	20
2:23 GARNISHMENT SUMMONS	20
2:24 RULES TO SHOW CAUSE AND CAPIAS	20
2:25 APPEALS	21
2:26 REQUEST FOR NEW TRIAL	21
2:27 SATISFACTION OF JUDGMENT	21

CRIMINAL COURT PRACTICE AND PROCEDURE	22
3:1 PRISONER ARRAIGNMENT DOCKET CALL.....	22
3:2 MISDEMEANOR DOCKET CALL	22
3:3 MOTIONS AND ARRAIGNMENTS	23
3:4 DISCOVERY MOTIONS.....	23
3:5 BOND REDUCTION MOTIONS	24
3:6 DETERMINATION AS TO REQUIREMENT FOR COUNSEL.....	24
AND INFORMATION ON ATTORNEY DATES.....	24
3:7 COMPETENCY MOTIONS	25
3:8 EARLIER COURT DATES.....	25
3:9 EMERGENCY TREATMENT ORDERS PENDING TRIAL.....	25
3:10 COMMUNITY SERVICE REFERRALS	26
3:11 PERSONS CHARGED WITH FIRST OFFENSE OF	26
POSSESSION OF MARIJUANA OR CONTROLLED SUBSTANCE.....	26
3:12 RESTRICTED DRIVER'S LICENSE	27
3:13 REQUESTS FOR SUBPOENAS FOR WITNESSES AND RECORDS	27
3:14 INTERPRETERS	28
3:15 PRELIMINARY HEARINGS.....	28
3:16 CONTINUANCES	29
3:17 FAILURE OF COMPLAINANT OR DEFENDANT TO APPEAR	30
3:18 BOND FORFEITURE	30
3:19 REQUEST FOR CERTIFICATE OF ANALYSIS	31
3:20 PRE-SENTENCE INVESTIGATION REPORTS/PROBATION	31
3:21 PAYMENT OF FINES AND COSTS.....	31
3:22 RESTITUTION	32
3:23 WITNESS REIMBURSEMENT	32
3:24 REQUEST FOR NEW TRIAL	32
3:25 APPEALS	32
3:26 EXPUNGEMENT OF RECORD.....	33
SMALL CLAIMS PRACTICE AND PROCEDURE.....	34
4:1 FILING SMALL CLAIMS ACTION.....	34
4:2 LANDLORD TENANT CASES	34
4:3 LIMITATION ON NUMBER OF CASES	34
4:4 COUNSEL	34
4:5 FEES	35
4:6 SERVICE OF PROCESS.....	35
4:7 CONTINUANCES	35
4:8 REMOVAL OF CASES TO THE CIVIL DIVISION OF THE GENERAL DISTRICT COURT	35
4:9 DISMISSAL OF PENDING CASES	35
4:10 DOCKET CALL	35
4:11 CONTESTED CASES	36
4:12 REQUESTS FOR SUBPOENAS FOR WITNESSES AND RECORDS	36
4:13 REQUIREMENT FOR FILING OF FURTHER PLEADINGS	36
4:14 INTERPRETERS	36
4:15 PRODUCTION OF WRITTEN AGREEMENT.....	37
4:16 INTERROGATORY SUMMONS.....	37
4:17 RULE TO SHOW CAUSE AND CAPIAS	37
4:18 APPEALS	37
4:19 SATISFACTION OF JUDGMENT	37

TRAFFIC COURT PRACTICE AND PROCEDURE.....	39
5:1 COURTROOM ASSIGNMENT.....	39
5:2 DOCKET CALL	39
5:3 BOND REDUCTION MOTIONS	39
5:4 DISCOVERY MOTIONS.....	40
5:5 OTHER MOTIONS	40
5:6 ADMINISTRATIVE IMPOUNDMENT OF MOTOR VEHICLE (46.2-301.1)	41
5:7 ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE	41
5:8 DETERMINATION AS TO REQUIREMENT FOR COUNSEL.....	42
5:9 REQUESTS FOR SUBPOENAS FOR WITNESSES AND RECORDS	43
5:10 INTERPRETERS	43
5:11 PREPAYMENTS	44
5:12 CONTINUANCES	44
5:13 FAILURE OF DEFENDANT TO APPEAR ON SUMMONS	46
5:14 FAILURE OF DEFENDANT TO APPEAR ON WARRANT.....	46
5:15 BOND FORFEITURE	46
5:16 PAYMENT OF FINES AND COSTS.....	47
5:17 CHANGE OF ADDRESS.....	47
5:18 SUSPENSION OF DRIVER'S LICENSE.....	47
5:19 RESTRICTED DRIVER'S LICENSE – RECKLESS DRIVING.....	48
5:20 REQUEST FOR CERTIFICATE OF ANALYSIS	48
5:21 DRIVING WHILE INTOXICATED	48
5:22 ADJUDICATION OF HABITUAL OFFENDERS	50
5:23 WITNESS REIMBURSEMENT	51
5:24 REQUEST FOR NEW TRIAL	51
5:25 APPEALS	51
5:26 EXPUNGEMENT OF RECORD.....	51
COURT SERVICES DIVISION	53
6:1 PRETRIAL RELEASE AND ARRAIGNMENT HEARINGS	53
6:2 BOND REDUCTION MOTIONS	53
6:3 SUPERVISED RELEASE	53
6:4 COURT APPOINTED COUNSEL	54
6:5 APPOINTMENT OF INTERPRETERS	54
6:6 SCHEDULING OF CASES FOR EARLIER COURT DATES	54
6:7 COURT SERVICES PROBATION PROGRAM	55
COURT APPOINTED ATTORNEY PROCEDURES.....	56
7:1 COURT APPOINTED ATTORNEY LIST.....	56
7:2 ASSIGNMENT GUIDELINES	56
7:3 CASE ASSIGNMENT.....	57
7:4 ATTORNEY'S RESPONSIBILITIES	57
7:5 BILLING PROCEDURES	57
7:6 PAYMENT	58
7:7 SUBSEQUENT HEARINGS FOLLOWING TRIAL	59
7:8 SUBSTITUTION OF COUNSEL	59
7:9 REQUESTS FOR WITHDRAWAL OF COUNSEL	59
DIRECTIONS TO THE COURT & MAPS.....	60
FAIRFAX COURT	60
HERNDON COURT	62
VIENNA COURT	64

APPENDIX OF HANDOUTS AND FORMS.....	65
CIVIL.....	65
CRIMINAL/TRAFFIC	66
OTHER FREQUENTLY REQUESTED HANDOUTS & FORMS.....	67

FAIRFAX COUNTY GENERAL DISTRICT COURT

Overview

The General District Court is a court of limited jurisdiction which hears matters involving adults charged with traffic violations and criminal misdemeanors, civil suits and small claims cases, and conducts preliminary hearings in felony cases according to authority granted in the Code of Virginia. The Court has exclusive jurisdiction in civil cases involving \$3,000 or less and concurrent jurisdiction with the Circuit Court in cases involving more than \$3,000 and up to and including \$15,000.

The General District Court does not conduct jury trials; all cases are heard by a judge. Preliminary hearings and all civil and small claims cases are heard at the Judicial Center. Misdemeanors for local ordinances and local traffic violations are heard at the Judicial Center and also in Herndon, Vienna, and Fairfax City.

The Court Services Division of the General District Court assists defendants who request court-appointed counsel or interpreter services, interviews defendants in jail to assist judges and magistrates with release decisions, operates a pretrial supervised release program, and provides probation services to convicted misdemeanants.

Judges of the General District Court are elected by the Virginia General Assembly for a term of six years. The Honorable Richard T. Horan currently serves as Chief Judge of the Fairfax County General District Court.

The General District Court is located on the first and second floors of the Judicial Center at 4110 Chain Bridge Road, Fairfax, Virginia 22030. The Court's Information Line for reaching all clerical divisions of the General District Court is 703-691-7320. The court maintains a homepage of general information available on the Internet at <http://www.co.fairfax.va.us/courts/gendist/homepage.htm> .

The "Administrative Procedures of the Fairfax County General District Court Governing Court Practice and Procedure" is published once a year and made available free of charge. This publication contains helpful information concerning the Court's requirements and policies. It is generally updated each year after July 1 and may be requested at any of the General District Court's clerk's offices on the first and second floors of the Judicial Center.

PART ONE
***GENERAL INFORMATION AND PROCEDURES
APPLICABLE TO ALL PROCEEDINGS***

1:1 Location and Office Hours of Courts in 19th Judicial District

Fairfax County Judicial Center - 4110 Chain Bridge Road, Fairfax, VA 22030

Judges' Chambers - Room 232

Hours: 8:00 a.m. to 4:00 p.m. - Phone: 703-246-2153

Clerk's Offices:

Court Automated Information Line - 703-691-7320 (All Divisions)
(See [Section 1:7](#) for routing shortcuts)

Civil Division - Room 288 - Phone: 703-246-3012

Office Hours: 8:00 a.m. to 4:00 p.m.

Phone Hours: 8:00 a.m. to 3:30 p.m.

Civil Courtrooms: 2A and 2B. Also, 2E, 2F, and 2H as needed.

Criminal Division - Room 239 - Phone: 703-246-3305

Office Hours: 8:00 a.m. to 4:00 p.m.

Phone Hours: 8:00 a.m. to 3:30 p.m.

Criminal Courtrooms: 2G and 2H. Also, 2E and 2F as needed.

Small Claims Division - Room 211D - Phone: 703-246-2115

Office Hours: 8:00 a.m. to 4:00 p.m.

Phone Hours: 8:00 a.m. to 3:30 p.m.

Small Claims Courtrooms: 2E or 2F. Also, 2A and 2B as needed.

Traffic Division - Room 176 - Phone: 703-691-7320

Office Hours: 8:00 a.m. to 4:00 p.m.

Phone Hours: 8:00 a.m. to 3:15 p.m.

Traffic Courtrooms: 1A, 1B, 1C, 1D, and 2H. Also, 2G as needed.

Court Services Division - Room 211C - Phone: 703-246-3045

Hours: 8:00 a.m. to 4:00 p.m.

Vienna Town Hall - 127 S. Center Street, Vienna, VA 22180 - Phone: 703-255-6312
(Clerk's Office in Fairfax Judicial Center-Room 176-Phone: 703-691-7320)

Herndon Town Court - 765 Lynn Street, Herndon, VA 22070-Phone: 703-435-6838
(Clerk's Office in Fairfax Judicial Center-Room 176-Phone: 703-691-7320)

Fairfax City Hall - 10455 Armstrong Street, Fairfax, VA 22030
(Clerk's Office in Fairfax City General District Court)
Phone: 385-7866, Hours: 8:30 a.m. to 5:00 p.m.

1:2 Schedule of Court Sessions

Fairfax County Judicial Center:

Civil

Regular and Contested Dockets: 9:30 a.m., Monday through Friday,
Courtrooms 2A and 2B, respectively.

All civil cases arising in Fairfax City, Fairfax County, Herndon, and
Vienna are heard at the Judicial Center.

Criminal

Prisoner Arraignment Docket: 8:30 a.m., Monday through Friday,
Courtroom 2G. (Closed hearing - no admittance without
prior permission from the Sheriff's Office).

Arraignment and Motions Docket: 9:30 a.m., Monday through Friday,
Courtroom 2H or 2F.

Regular Criminal Docket: 9:30 a.m., Monday through Friday, Courtroom 2G.

Preliminary Hearing Docket: 2:00 p.m., Mondays, Tuesdays, and Wednesdays,
Courtrooms 2H, 2G, 2F, 1A, 1B, and 1C.

Sentencing Docket: 2:00 p.m., third Thursday, Courtrooms 2H, 2G, 2F, 1A, 1B, 1C.
(If third Thursday falls on a holiday, then fourth Thursday.)

Small Claims

Regular and Contested Docket: 9:30 a.m., Fridays, Courtroom 2F or 2E.

Traffic

Regular Traffic Docket: 9:30 a.m., Monday through Friday,
Courtrooms 1A, 1B, 1C, 1D, and 2H. (Also, 2G as needed.)

Sentencing/Non-Compliant Docket: 2:00 p.m., first Thursday,
Courtrooms 1A, 1B, 1C, 1D, and 2H. (If first Thursday falls on a
holiday, then second Thursday.)

Vienna Town Hall:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Mondays.
(Clerk's Office in Fairfax Judicial Center - Room 176).

Herndon Town Court:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Wednesdays.
(Clerk's Office in Fairfax Judicial Center - Room 176).

Fairfax City Hall:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Tuesdays
and Thursdays.

Misdemeanors charged under State Code and felonies are heard at the Fairfax Judicial Center.

1:3 Court Closings

The General District Court prints a calendar of court closings each year which lists the dates court will not be in session as well as state holidays when the court is closed. This calendar is revised as needed throughout the year. Copies of the calendar of court closings are available at each of the clerk's counters on the first and second floor in the Judicial Center.

The Court rarely closes due to inclement weather. If it is announced that the Fairfax County Government Offices are closed due to severe weather conditions, then the Court will be closed also.

1:4 Special Administrative Functions of Judges

The Chief Judge shall be responsible for the overall administration of courts and assignment of sitting judges. In addition to their responsibilities as sitting judges, the Chief Judge shall assign each judge administrative responsibilities to ensure the orderly functioning of the court in its respective divisions. Office Hours: 8:00 a.m. - 4:00 p.m., Monday through Friday. Judges available by appointment, 703-246-2153.

1:5 Foreign Counsel

Attorneys practicing before the court must be members of the Virginia Bar in good standing. Foreign counsel and third-year law students must associate with local counsel pursuant to the Code of Virginia, Section 54.1-3900. Local counsel must remain in the courtroom during the conduct of the trial. (See also Virginia Supreme Court Rule 1A:4.)

1:6 Fax Policy

The Fairfax County General District Court does not accept any pleadings, documents, or requests sent by Fax. Items directed to the Court's attention should be sent by United States postal mail, other mail services, or by personal delivery.

1:7 Court Information Line – 703-691-7320

General District Court case information may be accessed 24 hours a day on the County's Court Information Line by using a touch-tone telephone. The Court Information Line provides descriptions of Fairfax County's Circuit Court, General District Court, and Juvenile and Domestic Relations District Court and offers directions on how to get to the courts.

By dialing 703-691-7320, callers can listen to general information, such as how to request a continuance, the need for an attorney, and how to file a motion or appeal, or can be transferred to a staff member during business hours. Specific information on cases filed in the General District Court, such as upcoming hearing dates and case dispositions, may also be obtained from the Court Information Line by entering the case number or summons number.

After dialing **703-691-7320**, callers will be asked to select from various menus by pressing a corresponding number on their touch-tone phone. Within any of the menus, the caller may press 0 (zero) to reach a clerk, # (pound sign) to repeat menu options, or * (asterisk) to return to a previous menu. Callers are reminded to pause between each number so the automated system does not confuse ①② for the number 12.

Listed below are menu shortcuts that list the sequence of numbers to press in order to reach a specific destination.

Civil Division: Dial 703-691-7320, Press ④①, then:

①-Info on an existing case (by entering the case number), then:

①-Upcoming court dates

②-Required due dates on pleadings

③-Case disposition

④-Appeal information

②-How to file a new case

③-Fees required

- ④-Need for an attorney
- ⑤-How to request a continuance
- ⑥-How to appeal

Small Claims Division: Dial 703-691-7320, Press ④②, then:

- ①-Info on an existing case (by entering the case number), then:
 - ①-Upcoming court dates
 - ②-Required due dates on pleadings
 - ③-Case disposition
 - ④-Appeal information
- ②-How to file a new case
- ③-Fees required

Criminal Division: Dial 703-691-7620, Press ④③, then:

- ①-Info on an existing case (by entering the case number or summons number), then:
 - ①-Upcoming court dates
 - ②-Attorney of record on the case
 - ③-Case disposition
- ②-How to request a continuance
- ③-Need for an attorney
- ④-How to appeal
- ⑤-How to file a motion

Traffic Division: Dial 703-691-7620, Press ②③, then:

- ①-Info on an existing case (by entering the case number or summons numbers), then:
 - ①-Fine amount due
 - ②-To pay the fine by credit card
 - ③-Upcoming court dates
 - ④-Attorney of record on the case
 - ⑤-Case disposition
- ②-How to request a continuance
- ③-Need for an attorney
- ④-How to appeal
- ⑤-How to file a motion

PART TWO
CIVIL COURT PRACTICE AND PROCEDURE

2:1 Filing Civil Action

The Civil Clerk's Office is open for the filing of civil actions from 8:00 a.m. to 4:00 p.m., Monday through Friday. No case shall be filed or accepted by the Clerk for filing after 4:00 p.m. unless the filing of such case shall be approved by a judge. A civil action may be brought by warrant, summons, or motion for judgment directed to the sheriff or any other person authorized to serve process, requiring such individual to summon the person against whom the claim is asserted to appear before the court on a certain day to answer the complaint of the plaintiff set out in the warrant, summons, or motion for judgment.

The return date on a warrant, summons, or motion for judgment must be within 60 days after service. All cases are returnable to 9:30 a.m., Monday through Friday, with Fridays reserved for unlawful detainers or tenant/landlord cases only. The return date on an unlawful detainer should be set for a Friday approximately 16-21 days after filing, and service shall be made on defendant at least ten days before the return date (see Code of Virginia, Section 8.01-126).

The General District Court has jurisdiction over disputes up to and including \$15,000. Exceptions to this include distress warrants, where the General District Court has exclusive original jurisdiction, and unlawful detainers brought for damages or rent owed on property which was used primarily for business, commercial or agricultural purposes (see Code of Virginia, Section 16.1-77).

2:2 Limitation on Number of Cases

No one attorney, law firm, or party litigant shall file more than 25 new cases with the Clerk's Office on any one day, with the exception of unlawful detainers for which the limit for filing is 35 cases on one day. No more than 25 new cases shall be returnable to any given date by an attorney, law firm, or party, and no more than 3 cases shall be scheduled for a given trial date without approval of a judge.

2:3 Counsel

Attorneys should always note their appearance in writing in a case. Civil dockets are arranged by attorney's or law firm's names with unrepresented parties placed last on the docket. Once an appearance is entered in a case, counsel may not withdraw without leave of court, after notice to the client. Substitution of counsel may be made with the party's written consent.

2:4 Corporations and Partnerships

Corporations and partnerships are severely restricted in their actions before the court if they appear without counsel. Corporate officers or employees who are not licensed to practice law may not act as an attorney for the corporation at trial. They may not request judgment or cross-examine witnesses, and they are limited by law as to the filing of certain pleadings. (See Code of Virginia, § 16.1-88.03.)

2:5 Fees

Civil filing fees are set forth in the Code of Virginia. Currently, the filing fee on most actions in the Civil Division is \$18.00. A sheriff's service fee of **\$12.00 per party to be served** is also required at the time of filing on all documents to be served by the sheriff. Processes for service through the Secretary of the Commonwealth or the Division of Motor Vehicles do not require the \$12.00 sheriff's service fee, but other fees are required. Some filings may require multiple \$12.00 service fees either because more than one person must be served (such as on a garnishment where the debtor and the garnishee must both be served) or because the action requires more than one type of service (such as on a writ of possession, attachment, or levy where the papers must be served and the writ must be executed). **See Appendix, "Filing Civil Process - Guide to Forms and Copies Needed"**, for listings of current filing and sheriff's service fees. Personal and business checks are accepted for payment of all filing and sheriff's fees and should be made payable to "Fairfax County General District Court".

2:6 Service of Process

Service of process is usually accomplished by the sheriff, within the County or City boundaries of his jurisdiction, or by special process within the state of Virginia (see Code of Virginia, Section 8.01-293 and Section 8.01-325). If service is achieved by posting, a default judgment is not possible unless the plaintiff certifies to the court that the defendant was mailed a copy of the process, at his or her residence, at least ten days before entry of the default judgment.

When there is a basis for jurisdiction pursuant to the Code of Virginia, Section 8.01-328.1, service may be made on an out-of-state defendant by certified mail through the Secretary of the Commonwealth. This type of service requires an affidavit of non-residency or an affidavit stating that after the exercise of due diligence, the party has been unable to locate the defendant. In either case, the affidavit must set forth the last known address of the person to be served. The form (DC-410) which must be used for this affidavit is available at the Civil Clerk's Office. A completed green return receipt card must be filed along with affidavit because the Secretary now serves by certified mail. A fee of \$28 per defendant to be served is charged by the Secretary. Additional time should be allowed for the return date when service is requested through the Secretary of the Commonwealth.

In automobile accident cases, service may be made on a defendant by service through the Department of Motor Vehicles, with proper affidavit of non-residency or an affidavit stating that after the exercise of due diligence, the party has been unable to locate the defendant. In either case, the affidavit must set forth the last known address of the person to be served, and further, that the action arose from an automobile accident resulting from the operation of a motor vehicle in the Commonwealth of Virginia. There is no state form for this affidavit. A fee of \$28.00 per defendant to be served is charged by the Department of Motor Vehicles.

The employees of the Civil Clerk's Office will not check service for any plaintiff or plaintiff's counsel. The files on the return docket for any particular day are available for review in Courtroom 2A from 9-9:15 a.m. on the return date, or service may be checked prior to the return date in the Clerk's Office. If service of process has not been made, the court has no jurisdiction to adjudicate the matter. Occasionally, a defendant may have received a mailed copy of the warrant and will appear in court without having been served. In these instances, the Court may request that the defendant sign a form submitting to the jurisdiction of the Court.

One alias (second attempt at service) is allowed provided the alias is filed within 90 days from the original return date. Although no filing fees are required, the \$12.00 per person sheriff's service fee is still required on alias filings if service is requested through the sheriff.

2:7 Service by Private Process

Generally, anyone age eighteen years or older who is not a party or otherwise interested in the matter in controversy may serve most types of civil processes in the General District Court (exceptions include any writ of possession, see Virginia Code Section 8.01-293). The Code of Virginia is very specific as to the manner of service (see § 8.01-296) and how return of service is made to the Clerk's Office (see § 8.01-325).

The return should follow the same progressive order as found on the Sheriff's return on the back of the state warrant in debt form. In other words, the return should state that personal service was attempted, and then substitute service on a family member was attempted before service by posting was made.

The return must include the date and manner of service and the name of the party served. The server's name, address, and telephone number are also required, along with an affidavit stating the qualifications of the person serving process. The Code requires that the person serving process make return to the Clerk's Office within 72 hours of service.

2:8 Continuances

All continuance requests must be submitted in writing at least five days prior to the court date. A first continuance from the regular or trial docket will be handled by the clerk if the new date is agreed to by all parties, pending availability of the trial date. Dates available for trial are posted daily on the bulletin board located just outside the Civil Clerk's Office. Parties should consult

the Court's closing schedule before selecting a continuance date. A copy of the General District Court's current closing schedule is available at the Clerk's Office.

Opposed continuance requests must be made by personal appearance in open court, after written motion, with at least five days notice to the Court and all parties and/or counsel of record. No case shall be continued generally. (See [2:16](#) for additional information.)

2:9 Removal of Cases to the Circuit Court

All such motions timely filed shall be granted as prescribed by law (see Code of Virginia, Section 16.1-92). The removal form and affidavit of substantial defense must be received in the Civil Clerk's Office prior to the first return or within ten days after the return date and prior to commencement of the trial or entry of judgment.

The DC-438 form, available in the Civil Clerk's Office, should be used to file a motion for removal. A check payable to Circuit Court to cover the writ tax should be filed with the removal. Payment to reimburse the plaintiff's filing fee should be sent directly to the plaintiff or plaintiff's counsel. It will not be accepted by the Civil Clerk's Office.

The judge shall determine the amount of bond required for the removal of an unlawful detainer case. As of July 1, 1998, the Removal to Circuit Court form (DC-438) was revised to indicate that the General District Court has exclusive jurisdiction on civil actions involving \$3,000 or less pursuant to the Code of Virginia, Section 16.1-77. Residential unlawful detainer cases may be removed even when unpaid rent is not an issue.

2:10 Dismissal of Pending Cases

No pending case shall be dismissed **by agreement of the parties** unless the same is done by praecipe, endorsed order, or sufficient proof of the consent of all parties. See Virginia Supreme Court Rule 7B:8 and Rule 7B:9 for dismissal of cases based on failure of plaintiff or defendant to appear.

2:11 Docket Call

The Regular Civil Docket shall be called by the presiding judge at 9:30 a.m., Monday through Friday, in Courtroom 2A. Docket order is determined by attorneys with the fewest number of cases to attorneys with the greatest number of cases, followed by unrepresented cases. Those cases set for their first return will be called in order by the judge. The judge shall review, approve, enter, or deny all requests for default judgment, uncontested motions for continuances, interrogatories, rules to show cause, orders of payment, and all other preliminary requests by litigants. If the defendant appears and admits liability on the plaintiff's claim, the judge will enter judgment. If, however, the defendant appears and contests the matter, the judge will assign a trial date.

The Civil Trial Docket shall be called by the presiding judge at 9:30 a.m., Monday through Friday, in Courtroom 2B. The judge shall first grant uncontested judgments on the affidavit, judgments ex parte, plus determine the length of contested cases for trial that day. After the original docket call, the judge will commence with the trials. Contested cases may be transferred to other courtrooms for trial as other judges become available.

2:12 Contested Cases

All such cases shall be placed on the Courtroom 2B trial docket by attorneys or parties pro se with approval of the judge, in open court, or by praecipe with agreement of all parties prior to the first return date. Attorneys shall not schedule more than three trials per day on the contested docket. Only unlawful detainer actions and distress warrants will be heard on Fridays. Available trial dates may be determined by calling the Civil Clerk's Office at 703-246-3012 or by checking the calendar of available trial dates posted daily on the bulletin board located just outside the Civil Clerk's Office.

All contested cases shall be heard in open court and judgment rendered in open court, or taken under advisement with a subsequent date set for proclamation of judgment or letter of opinion.

The Clerk's Office needs to be notified in advance of lengthy trials. Any contested case that is expected to take more than two hours to complete should be brought to a clerk's attention so that special docketing arrangements can be made.

2:13 Requests for Subpoenas for Witnesses and Records

Witness subpoenas should be filed at least ten days in advance of the trial and requests for subpoenas duces tecum should be filed at least fifteen days prior to trial on the appropriate forms furnished by the Civil Clerk's Office. (See Supreme Court Rule 7A:12.) The court cannot guarantee service on any request filed late. Subpoenas for witnesses and records require separate \$12.00 sheriff's service fees.

Effective July 1, 2000, new forms exist for **attorney issued** subpoena duces tecum (DC-498) and for **attorney issued** subpoena for witness (DC-497) on civil actions only. These forms are available in the Civil Clerk's Office or may be obtained on the web site for the Supreme Court of Virginia at www.courts.state.va.us/supreme.htm. At the time of issuance, the attorney must provide the Civil Clerk's Office with a copy of the completed form and a check for any applicable sheriff's service fee (see Code of Virginia, Section 16.1-265 and 16.1-89).

2:14 Requirements for Filing of Bill of Particulars and Grounds of Defense

Upon request, the judge may require the plaintiff to file with the Court a written bill of particulars and the defendant to file with the Court a written grounds of defense, also mailing copies of these filings to the opposing party. The bill of particulars and grounds of defense shall

be due on specific dates and should be under oath or notarized. The failure of either party to comply may be grounds for awarding summary judgment in favor of the adverse party. Upon trial, the judge may exclude evidence as to matters not described in any such pleading.

2:15 Interpreters

As funding allows, the Court will provide non-English interpreters for civil trials. The Civil Clerk's Office should be notified in advance when an interpreter is needed or the case may require a continuance. The Court shall appoint an interpreter for any speech-impaired or hearing-impaired party or witness who requests this assistance. The Civil Clerk's Office should be notified at least one week in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is available upon request for any hearing-impaired party or witness.

2:16 Motions, Demurrers, Pleas in Abatement

All such pleadings shall be heard in open court. If contested, motions will usually be called and then passed to the end of the docket in Courtroom 2A. Form and notice shall be as prescribed by law. Five days notice is required to the opposing party and the court. Motions should be scheduled Mondays through Thursdays, with Fridays reserved for landlord/tenant actions and their motions only.

2:17 Judgment on the Affidavit

Such request shall be noted by the judge during the call of the docket and entered or denied by the judge on review of the file. Judgment will not be entered unless the affidavit has been served on the defendant at the time of service of the Warrant. An alias service of process may not be filed solely to obtain service of an affidavit which was omitted from the original filings.

The General District Court grants judgment on the affidavit contingent on review of the file in Chambers. If the file is later found to be incomplete or incorrect, the judgment is vacated and a disposition of dismissed without prejudice is entered. A dismissal of a case under these circumstances will be entered as of the date of actual review rather than the date the judgment was initially entered in court. The Civil Clerk's Office does not notify parties when a judgment on the affidavit is vacated. It is the plaintiff's responsibility to check that a final judgment was entered after review. **See Appendix, "Civil Judgment Checklist".**

2:18 Ex Parte Proof

All such cases shall be heard in open court by the judge either during or at the conclusion of the call of the docket. Judgment shall be noted by the judge on the file and subsequently entered by the judge after review of the file.

2:19 Default Judgment in Motor Vehicle Damage Cases

Pursuant to Virginia Supreme Court Rule 7B:9, when a defendant who is properly served fails to appear, the Court may grant a default judgment after having received an itemized estimate of repairs, or upon presentation of a written appraisal (see Code of Virginia, Section 8.01-416).

2:20 Requests for Attorney's Fees and Interest

When requesting attorney's fees or interest based on written contract, note, or other instrument, the applicable areas must be highlighted or circled on the document. If the contract, note, or other instrument allows for "reasonable" attorney's fees, but does not state a specific amount, then an affidavit must be filed noting the hours spent multiplied by the attorney's hourly rate to support the award of attorney's fees.

2:21 Production of Written Agreement

When a suit is brought on a written contract, note, or other instrument, the original document shall be tendered to the Court for entry of judgment thereon unless the production of the original is excused by the court for good cause or by statute. If the required original documents are not in the file at the time of the judge's review in Chambers, the judgment shall be vacated and the case dismissed without prejudice as of the date of review, and the plaintiff will need to start again. It is the plaintiff's responsibility to check that a final judgment was entered after review.

Documents which need to be submitted to the Court include:

- original note, contract or lease
- original bad check
- copy of a statement of account or invoice
- copy of homeowner's agreement or bylaws
- copy of credit card agreement and signature card
- copy of estimate or repairs

For unlawful detainers, the following documents must be submitted:

- original lease with interest and attorney's fees highlighted
- 5 day pay or quit or other required notices
- affidavit filed and served with detainer if requesting judgment on the affidavit
- letter of reservation when rent is accepted after notice period has expired but possession is still sought pursuant to the Code of Virginia, Section 55-248.34.

2:22 Interrogatory Summons

Examination of parties (and their documents if requested by subpoena duces tecum) through interrogatory proceedings shall be held in open court at the conclusion of the docket call. Out-of-court interrogation of responding parties is generally permitted at the discretion of the judge and with the consent and agreement of the party to be interrogated informally or after the oath is administered in open court by the judge. Parties must return to the courtroom for the judge's approval before executing on personal property items at the interrogatory hearing. Execution on cash may require a turnover order. No interrogatory summons shall be continued more than one time. Both interrogatories and subpoenas duces tecum require sheriff's service fees.

2:23 Garnishment Summons

Effective April 16, 1998, the Code of Virginia, Section 8.01-513, allows service of a garnishment upon officers and designated or managing employees of a corporation. Before service can be made on the registered agent or through the State Corporation Commission, the judgment creditor must supply the Court with a certificate stating (1) after due diligence, no such officer or employee or other person authorized to accept such service can be found in the Commonwealth, or (2) the designated or managing employee is also the judgment debtor.

All garnishments are returnable to the General District Court not more than ninety days from issuance, Monday through Thursday at 9:30 a.m. in Courtroom 2A. **See Appendix, "Garnishment Information".** A garnishment directed against the wages of a federal employee requires service on a designated agent or agency head. **See Appendix, "Procedures for Federal Government Garnishments".**

The clerks will not check service. It is the responsibility of the judgment creditor or his or her attorney to check that service has been made on the garnishee and attempted on the debtor, and that a written answer or check has been received by the Court.

2:24 Rules to Show Cause and Capias

Requests for a rule to show cause or capias are to be filed by the requesting party on the appropriate form provided by the Civil Clerk's Office. The forms should be filed as soon as possible after the rule or capias is authorized in court because there will be no continuances for the submission of the necessary paperwork. If the forms are not submitted, the rule or capias will be dismissed on the return date and the judgment creditor will have to start again with the garnishment, or wait six months to begin interrogatories again. Once issued and served, such pleadings may be dismissed only by a judge for good cause shown. There is no filing fee, however, the \$12.00 sheriff's service fee per party to be served is required at the time of filing a rule or capias.

2:25 Appeals

Appeals from the judgments of the Court must be noted **in writing** within ten calendar days and must be perfected **in person** within thirty calendar days from the date of the judgment by posting the bond, paying the writ tax, and signing the appeal form prepared by the Clerk's Office. In unlawful detainer actions, the bond and writ tax must be posted within ten days. An appeal may be noted by a party or by the attorney for such party (see Virginia Supreme Court Rule 7A:13 for exceptions). Writ tax must be paid by cash, postal money order, or attorney's firm check with bar number payable to Circuit Court. All bonds must be in the form of cash, postal money order, or surety bond. When bond is by corporate surety, a bondsman must appear before a clerk because the bondsman's signature and oath are required to perfect the appeal. Notice and perfection of appeals shall be filed with the Civil Clerk's Office during business hours, Monday through Friday, unless otherwise authorized by a judge. The denial of a motion to rehear may not be appealed.

2:26 Request for New Trial

All motions for a new trial, to vacate judgment, or for reconsideration of judgment, shall be by motion in open court, only after notice to the adverse party pursuant to the Code of Virginia, Section 16.1-97.1.

2:27 Satisfaction of Judgment

Pursuant to the Code of Virginia, Section 16.1-94.01, once a judgment has been satisfied the judgment creditor or his agent or attorney must notify the Court **in writing** of this satisfaction within 30 days of payment or satisfaction of the judgment. A Notice of Satisfaction of Judgment form (DC-458) is available in the Civil Clerk's Office for this purpose. It complies with the code section which states: *Such notice shall include the docket number, the names of the parties, the date and amount of the judgment, and the date of the payment or satisfaction.*

If the judgment creditor fails to notify the Court within thirty days of satisfaction of judgment, then the judgment debtor may file a motion requesting that the Court order the judgment to be marked satisfied after notice to the judgment creditor. Upon sufficient proof, the judge can also order the judgment creditor to pay the judgment debtor's costs and attorney's fees. A Motion for Judgment to be Marked Satisfied form (DC-459) is available in the Civil Clerk's Office and requires the \$18 filing fee plus any applicable sheriff's service fee of \$12 per person to be served. The Court's disposition of the motion may be appealed to the Circuit Court if the original judgment principal is greater than \$50.

PART THREE
CRIMINAL COURT PRACTICE AND PROCEDURE

3:1 Prisoner Arraignment Docket Call

Any defendant arrested who does not make bond prior to the next day court is in session shall appear in court at 8:30 a.m. This hearing is held in Courtroom 2G and is closed to the public, except immediate family, unless prior arrangements are made with the Sheriff's Office. This docket shall be called by the presiding judge who shall:

- Read the charge to the defendant;
- Advise the defendant of his trial date (misdemeanor);
- Advise the defendant of his preliminary hearing date (felony);
- Advise the defendant of the amount and type of his bond;
- Inform the defendant of his right to counsel and determine by inquiry the defendant's status with respect to counsel. (See [Section 3:6.](#))

Other matters heard during this docket include motions initiated by the Court Services Division for defendants who remain incarcerated. These motions include requests for assignment of counsel, release of defendants on personal recognizance, third party release, or release under the supervision of the Court Services Division. (See Part Six, Court Services Division, for additional information.)

3:2 Misdemeanor Docket Call

The Criminal Court Misdemeanor Docket shall be called by the presiding judge at 9:30 a.m., Monday through Friday. This docket is split between two courtrooms, Courtroom 2G and either 2F or 2H. The docket sheet is posted daily on the bulletin board next to the criminal clerk's counter on the second floor to direct parties to the correct courtroom. Courtroom 2G is assigned cases for trial with the exception of shoplifting, concealment, and possession of marijuana or controlled substances cases, which are assigned to the second courtroom along with most motions. (See [Section 3:3.](#))

The presiding judge may first accept:

- Motions of the Commonwealth's Attorney;
 - requests for continuances, and
 - recommendations.
- Motions of defense attorneys;
 - requests for continuances, and
 - entry of guilty pleas.

The presiding judge shall then call the docket in alphabetical order by defendant's last name. All pleas of guilty for offenses as charged shall be determined and disposed of during the docket call. Pleas of not guilty may either be set over and heard as a contested case at the conclusion of

the docket call, or heard during the call of the docket, at the sole discretion of the presiding judge. Cases may be transferred to other courtrooms for trial as other judges become available.

3:3 Motions and Arraignments

The Motions and Arraignments Docket shall be called at 9:30 a.m., Monday through Friday, in Courtroom 2H or 2F and shall include the following types of motions and arraignments:

- Bond Reduction Motions.
- Other motions, such as contested Discovery, motions for Subpoena Duces Tecum, and motions to withdraw counsel. Since such motions are not passed to the prosecutor first, defense counsel may wish to hand a copy of the motion to the prosecutor in the courtroom in order to expedite the hearing of the motion.
- Review of eligibility and possible assignment of eligible defendants charged with first time shoplifting or concealment to serve community service with either Opportunities, Alternatives and Resources of Fairfax County, Inc. (OAR) or the Volunteer Center in lieu of conviction. For procedures on referrals, see [Section 3:10](#).
- Review of eligibility and possible assignment of eligible defendants arrested for first time possession of marijuana or controlled substances to the Fairfax Alcohol Safety Action Program (ASAP) drug education program and/or treatment in lieu of conviction. For procedures on these referrals, see [Section 3:11](#).
- Dispositional hearings for defendants who have successfully completed assignments with OAR, Volunteer Center, or Fairfax ASAP, or trials for those who did not complete their assignments.
- Arraignment of defendants charged with felonies. In arraigning such defendants, the judge shall comply in all respects to the procedures set forth hereinbefore pertaining to setting preliminary hearing dates, status of counsel, and continuance of bond.
- Information on attorney dates. In reviewing such cases, the judge will determine whether the appropriate forms have been filed and, if not, cases will be called for defendants to explain why they have not yet met with an attorney.
- Trials on petty larceny cases found not eligible for community service.
- Trials referred from other courtrooms.

3:4 Discovery Motions

Requests for discovery require approval of a judge and should be filed with the Clerk's Office no later than 48 hours before the trial or preliminary hearing date on the Discovery Order form provided by the Clerk's Office. Agreed motions, signed by the Commonwealth's Attorney, may be dropped off in the "Discovery" basket in Chambers (Room 232) for a judge's signature. Once signed by the judge, the order should be retrieved by the attorney and then filed with the Criminal Clerk's Office before the 48-hour deadline. The attorney should advise the clerks that the motion is already signed and therefore will not require a hearing. Contested motions for discovery require a court hearing and should be filed in the Clerk's Office before 3:00 p.m., with notice to the Commonwealth's Attorney or other prosecuting attorney. Any motion filed in the

Clerk's Office before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m. in Courtroom 2H or 2F, unless specified otherwise. Responses to discovery are returnable to the Court by 9:00 a.m. on the misdemeanor trial date, or for felony cases, by 1:30 p.m. on the preliminary hearing date. See Rules of Virginia Supreme Court, Rule 7C:5, for additional information and requirements. **See Appendix, "Discovery Order".**

3:5 Bond Reduction Motions

All motions for a bond reduction must be filed in writing with the Criminal Clerk's Office by 3:00 p.m., on the afternoon before the requested hearing date, with appropriate notice to the Commonwealth's Attorney **and the Court Services Division**. Forms for this purpose are available from the Criminal Clerk's Office and the Court Services Division. **See Appendix, "Motion for Bond Reduction"**. If the defendant also has traffic charges pending, and the bond reduction motion includes those charges, the Traffic Clerk's Office must also be notified so that the case papers will be brought to the same courtroom.

Note: All bond reduction motions for criminal cases scheduled to be heard in either the Town of Herndon or the Town of Vienna must be filed with the Fairfax Criminal Division Clerk's Office located in Room 239 in the Fairfax Judicial Center. Follow the procedures as noted above with the exception that the Herndon Prosecutor (Manuel Capsalis, 703-525-2260) or Vienna Prosecutor (David Hall, 703-691-4100) must be notified instead of the Commonwealth's Attorney. Bond reduction motions on town cases will be heard in the criminal courtrooms (either 2H or 2F) in the Judicial Center, **not** in the towns. Motions on Fairfax CITY cases should be filed with the City Court Clerk's Office.

Procedures for bond reduction motions shall be as follows:

- Receipt of testimony of witness, if any;
- Argument by defense counsel;
- Receipt of Court Services Division report or Supervised Release (SRP) recommendation and other pertinent data;
- Argument by Commonwealth's Attorney;
- Final determination by the judge.

3:6 Determination as to Requirement for Counsel and Information on Attorney Dates

In all felony cases, and in Class 1 and 2 misdemeanor cases, the judge shall inform the defendant of his right to counsel and determine by inquiry the defendant's status with respect to counsel.

If any defendant desires to retain counsel, the judge shall assign the defendant an Information on Attorney (IAD) date, prior to the trial date or preliminary hearing date, to return to court with written confirmation that counsel has been retained. (A card is given to the defendant in court by the clerk for this purpose.) If the Court receives the "Information on Attorney" card, signed by the attorney, prior to the IAD date, the defendant does not have to appear on that day. If the card

is not returned, the defendant must appear in court to explain why an attorney has not been retained. Any defendant who fails to appear or otherwise comply with the IAD requirements, shall be subject to the issuance against him of a bench warrant, and/or a notice of bond forfeiture to the defendant or any bondsman or third party surety, as the Court deems appropriate. Any cash bond posted by the defendant will be forfeited without further notice.

If any defendant desires court appointed counsel, he shall immediately be interviewed by Court Services personnel to determine if he qualifies for the same. Following review of the defendant's application, the judge shall inform the defendant whether he qualifies. If the defendant qualifies, counsel shall be appointed and the defendant so informed.

Once counsel has entered an appearance or been appointed to a case, counsel may not withdraw without leave of Court, after notice to the client. Substitution of counsel is permitted with signed consent of defendant and both attorneys. A form to withdraw or substitute counsel is available at the Criminal Clerk's Office. **See Appendix, "Appearance of Counsel" and "Motion to Withdraw or Substitute Counsel".**

If any defendant desires to waive his right to counsel, he shall be required to execute a "Waiver of Counsel" form.

3:7 Competency Motions

Competency motions pursuant to the Code of Virginia, Section 19.2-169, should be made on the appropriate form available at the Criminal Clerk's Office. **See Appendix, "Competency Motion" (GDC-137).** Motions must be filed by 3:00 p.m. to be heard on the next court day. The defense counsel must determine the appropriate section(s) under which to file the motion, depending on the circumstances of the case and the status of the defendant.

3:8 Earlier Court Dates

All parties, including witnesses, must agree if an earlier trial date is requested. Upon obtaining agreement, parties should notify the Criminal Clerk's Office at least 48 hours before the case is currently scheduled. If agreement cannot be reached, a motion may be filed, with notice to the other party, for review by a judge in open court. When a defendant remains incarcerated and the upcoming court date is more than one month away, defense counsel may contact the Court Services Division staff for assistance in arranging an expedited trial.

3:9 Emergency Treatment Orders Pending Trial

Emergency treatment orders pursuant to the Code of Virginia, Section 19.2-169.6 may be initiated either by defense counsel or the Forensics Unit of the Adult Detention Center. When initiated by the Forensics Unit, they will prepare a letter for review by the presiding criminal judge. If the judge consents to ordering the requested treatment, Chambers staff will notify

defense counsel. If defense counsel desires to file a motion contesting the treatment order, such motion must be filed with the Criminal Clerk's Office by 3:00 p.m. for hearing on the next day's 9:30 a.m. docket. As soon as the Court is notified of a pending emergency treatment order request, the jail is notified that the bond is revoked pending the judge's decision.

3:10 Community Service Referrals

The Court may refer defendants charged with a non-violent offense to one of several programs for the purpose of performing community service either in lieu of conviction or as part of the sentence imposed after conviction. Most frequently, referrals are made for first time shoplifting or concealment charges.

A defendant charged with shoplifting or concealment is eligible for a referral in lieu of conviction if he:

- has not previously been convicted of such an offense,
- has not previously had a proceeding against him for violation of such an offense dismissed,
- enters a plea of guilty, and the court could justify a finding of guilt, and
- consents to the referral.

Those who qualify as listed above and who are accepted into the program will be required to attend an education program, perform 50 hours of community service, and refrain from any further violations of law. All referrals are made returnable to the court for the judge to dismiss the case upon satisfactory completion of the program requirements. The Court may refer defendants to either OAR or the Volunteer Center.

Defendants charged with other non-violent offenses, including first time property offenses, are also eligible to perform community service in lieu of conviction. Those who receive a deferred judgment in accordance with the Code of Virginia, Section 19.2-303.2 must pay court costs.

Defendants assigned community service as part of their sentence may also be placed on probation at the discretion of the presiding judge.

3:11 Persons Charged with First Offense of Possession of Marijuana or Controlled Substance

Pursuant to the Code of Virginia, Section 18.2-251, whenever any person who has not previously been convicted of any statute of the United States or any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, enters a plea and the court could justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on conditional probation to complete the requirements of the Fairfax ASAP program. The defendant must appear at the Criminal Clerk's

Office, immediately following trial, and complete the necessary forms to be placed on probation as well as to pay the court costs.

Whenever the Court places an individual on probation pursuant to the Code of Virginia, Section 18.2-251, such action shall be treated as a conviction for purposes of the Code of Virginia, Sections 18.2-259.1 and 46.2-390.1, and the defendant's driver's license shall be forfeited for a period of six months. Under the Code of Virginia, Section 18.2-259.1(c), a restricted driver's license may be issued for specific purposes (refer to [Section 3:12](#) for procedures).

3:12 Restricted Driver's License

On eligible cases involving underage possession of alcohol or any drug violation, the defendant may petition the Court for a restricted driver's license pursuant to the Code of Virginia, Section 18.2-259.1(c). This may be done at the time of conviction or filed at a later date as a motion. Any motions must be filed with the Criminal Clerk's Office no later than 8:30 a.m. in order to be heard on that day's 9:30 a.m. docket. Prior to issuance of a restricted driver's license, all fines and costs must be paid in full and the defendant must surrender a valid driver's license.

A worksheet is available in the Criminal Clerk's Office that must be filled out and submitted when requesting a restricted driver's license. **See Appendix, "Restricted License Application/Worksheet"**. On the worksheet, the petitioner must provide the Court with the specific purpose for the hours requested on the restricted license (see the Code of Virginia, Section 18.2-271.1E). Also, the name and address of any employer or school must be provided.

3:13 Requests for Subpoenas for Witnesses and Records

Requests for subpoenas for witnesses should be filed at least ten working days prior to trial on the appropriate forms furnished by the Criminal Clerk's Office. The Court cannot guarantee service on any request not filed at least ten working days before trial. Service by private process may be approved by a judge for good cause shown.

Requests for subpoenas duces tecum should be filed at least 15 days prior to trial on Form DC-336 (original and three NCR copies - do not xerox). Requests may be dropped off in the "Discovery" basket in Chambers for a judge's signature (see [Section 3:4](#)) or may be filed as a motion with notice provided to the Commonwealth's Attorney or other prosecuting attorney. Any motion filed before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. If the request is to be served outside of Fairfax County, or if the documents required are not located within the local vicinity, the motion should be filed at least 21 days prior to the trial date. All documents and records will be ordered returnable to the Court.

3:14 Interpreters

The Court will provide non-English interpreters for all criminal court proceedings and, in certain instances, for attorney-client interviews. Spanish interpreters are available daily for interpreting in court. No advance notice to the Court is required. For all other languages, the attorney, defendant, or defendant's family member should notify Court Services in Room 211C of the Judicial Center (703-246-3045) at least one week in advance of the court date to allow sufficient time for scheduling of the requested language interpreter.

Court appointed counsel may request that Court Services schedule an interpreter to assist with attorney-client interviews if no other arrangements can be made. The interview will be scheduled in a private room at the Judicial Center during the afternoon when an interpreter is available. If the client is in jail, interpreters will assist with interviews at various times throughout the day. The Court provides non-English language interpreters for court proceedings and client interviews only. Private arrangements must be made for translation of documents.

The Court shall appoint an interpreter for any speech-impaired or hearing-impaired party or witness who requests this assistance. The Court Services Office in Room 211C (703-246-3045) should be notified at least one week in advance to arrange for a certified interpreter. An assisted listening device is available in each of the courtrooms upon request for any hearing-impaired party or witness.

3:15 Preliminary Hearings

Felony preliminary hearings shall be heard at 2:00 p.m., Monday, Tuesday, and Wednesday of each week. This docket is split between six courtrooms located on the first and second floors. Docket sheets are posted daily, Monday through Wednesday, on the bulletin board located just outside the Criminal Clerk's Office to direct parties to the correct courtroom. Only those cases in which the defendant is incarcerated may be heard during the week immediately preceding the week in which the Grand Jury convenes.

No preliminary hearing shall be set for hearing prior to fourteen (14) days after arraignment unless the same shall be set earlier by agreement between the defendant and the Commonwealth's Attorney and with the approval of the presiding judge. For procedure on continuances, see [Section 3:16](#).

The preliminary hearing may not be used for discovery. The defendant is entitled to call witnesses for the purpose of showing either that a crime was not committed or that the defendant did not commit the offense charged. The Court can refuse to permit witnesses to testify if the purpose is discovery.

Requests to authorize payment of a court reporter for a preliminary hearing for an indigent defendant must be made by motion in the **Circuit Court** prior to the hearing.

A defendant may waive his right to a preliminary hearing, and if he wishes to do so, must sign the original warrant indicating the waiver. A motion may be filed returnable to the regular 9:30 a.m. criminal docket for the purpose of waiving the preliminary hearing or entering an **agreed** disposition, such as a plea to a misdemeanor or *nolle prosequi*. The motion must be filed by 3:00 p.m. in order to appear on the next day's 9:30 a.m. docket.

If a defendant is certified to the grand jury or waives his right to a preliminary hearing, the Court shall set bond or continue the existing bond for appearance in Circuit Court. If a defendant's case is to be forwarded to Circuit Court and the defendant is in jail, the judge will set a trial date at the conclusion of the preliminary hearing.

On a felony warrant amended to a misdemeanor to which a defendant desires to enter a plea of guilty, the recommendation of the Commonwealth's Attorney, if any, will only be received after such defendant has properly executed the "Plea of Guilty to a Misdemeanor" form and any necessary Restitution Orders, and after examination of the defendant in open court as to his competency and as to the voluntariness of such a plea.

3:16 Continuances

No continuance shall be granted to the Commonwealth or defendant as a matter of right, but only for good cause shown.

For misdemeanor cases with an officer listed as complainant: the continuance request must be made either in person or by phone to the Criminal Clerk's Office at least two days prior to trial for review by a judge. The request will be presented to the presiding judge during the day. The party requesting the continuance must call back to the Clerk's Office to get the judge's decision. If the new trial date is known, the clerk will provide the new date. Otherwise, the Criminal Division must be contacted after the original court date to obtain the new trial date.

For misdemeanor cases with a citizen listed as complainant: the continuance procedures are the same as listed above except that both parties must agree to the new court date before a judge will grant approval. For certain misdemeanor cases such as assault, stalking, indecent exposure, telephone abuse, sexual assault, obscene phone calls, and destruction of property, if the complainant is a citizen, then the requesting party must file a motion to request a continuance. Parties are not to contact each other for an agreed date. The motion must be filed with the Criminal Clerk's Office at least five business days prior to the date the motion will be heard. The clerk will notify the other party of the motion date.

For all felony cases: defense counsel must first obtain a continuance request form and new preliminary hearing date from the Criminal Clerk's Office. **See Appendix, "Criminal/Traffic Continuance Request"**. Counsel should then obtain the agreement of the Commonwealth's Attorney before presenting the request for review by a judge. The judge may require that the attorney present the request in person. The Criminal Clerk's Office does not notify the defendant of the new preliminary hearing date.

In the event of an emergency, the clerk can place a note on the case up until 9:30 a.m. the morning of court to request a continuance. This note does not guarantee a continuance, and a bench warrant, show cause summons, or bond forfeiture may result from the non-appearance. The party requesting the continuance must call back after 2:00 p.m. on the court date for the judge's decision.

3:17 Failure of Complainant or Defendant to Appear

If any defendant shall fail to respond to a warrant or summons and the complainant is a police officer, the Court may continue the case and either authorize the officer to obtain a Failure to Appear (FTA) warrant at the end of 10 days, or direct the clerk to issue a capias for failure to appear. If any defendant shall fail to appear at preliminary hearing, a felony bench warrant will be authorized for the defendant's arrest.

If any defendant shall fail to respond to either a warrant or a summons and the complainant is a citizen, the Court shall continue the case and shall direct the issuance of a capias on the defendant for failure to appear and/or a notice of bond forfeiture to the defendant or any bondsman or third party surety. Any cash bond posted by the defendant will be forfeited without further notice.

The provisions herein notwithstanding, if a defendant fails to appear in response to a summons for a violation of law pertaining to drunk in public, fishing, hunting, boating, or animal statutes, the judge may, at his discretion, proceed to try said defendant in his absence. On conviction, the clerk shall send notice to the defendant of the trial in absence and the amount of the fine and costs assessed.

If a complainant fails to appear to prosecute a warrant or summons on his complaint, such warrant or summons shall be disposed of as to the defendant on the Commonwealth's motion to *nolle prosequi*. A rule to show cause against the complainant may be issued by the judge, returnable to a date set by the Court.

If a complainant desires to withdraw a warrant or summons obtained, he may be permitted to do so in court only at the discretion of the judge.

3:18 Bond Forfeiture

If a defendant on a bond fails to appear in court, any cash bond posted by that defendant will be forfeited without further notice.

If a defendant fails to appear while on a bond secured by a bonding company or posted by a third party, then the judge will authorize a show cause summons against the bonding company or third party. The Criminal Clerk's Office will issue a Show Cause Summons – Bond Forfeiture, Civil (DC-482) within 45 days of the failure to appear, pursuant to Code of Virginia, Section 19.2-143.

On the court date, if the bonding company or third party is found in default, the show cause will be continued at least 60 days for entry of a civil judgment. When judgment is entered, any third party bond will be immediately forfeited. A bonding company will be sent notice stating that the judgment must be paid to the Civil Division within 15 days or their bonding privileges will be revoked in the General District Court. The bonding company or third party has up to one year from the date of the finding of default in which to surrender the defendant and file a motion requesting that the judge vacate the forfeiture or reduce the amount of the forfeiture to offset their costs of producing the defendant. All motions must be filed in the Civil Division, Room 288.

3:19 Request for Certificate of Analysis

A defendant or defendant's counsel of record may request from the Criminal Clerk's Office a copy of any certificate of analysis in a case, pursuant to Code of Virginia, Section 19.2-187. The request must be in writing filed at least ten days prior to trial and shall clearly state in its heading "Request for Copy of Certificate of Analysis." A specific form is not required. Notice of the request must be supplied to the Commonwealth's Attorney.

3:20 Pre-Sentence Investigation Reports/Probation

Following a finding of guilt, the Court may delay the imposition of sentence pending the receipt of a pre-sentence investigation report or record check prepared by either the Court Services Division probation staff or the State Office of Probation and Parole. The defendant must appear at the Criminal Clerk's Office to complete the necessary forms. The pre-sentence investigation report or record check shall be made returnable to the Court at 2:00 p.m. on the third Thursday of the next month after trial. (If third Thursday falls on a holiday, then fourth Thursday.) If a defendant is placed on probation, the defendant must complete the referral forms at the Criminal Clerk's Office. In addition to completing the forms, any defendant assigned to probation with Court Services must meet with the probation staff immediately following court or immediately upon release from incarceration. In order to complete probation, a defendant must pay any fines and costs due to the Court and must comply with all orders of restitution and all conditions of probation.

3:21 Payment of Fines and Costs

Any defendant convicted of a criminal offense shall pay all fines and costs assessed immediately. Extra time for the payment of such fines and costs will be allowed **if requested in writing by the defendant**, however, an additional \$10 fee will be assessed if deferred payment or an installment plan is granted. The defendant must appear at the Criminal Clerk's Office to complete the appropriate forms.

If the defendant fails to make payment as prescribed, the unpaid debt will be sent to the Court's collection agent and the Division of Motor Vehicles (DMV) will be notified to suspend the

defendant's driver's license or privilege to drive in Virginia until the debt is paid in full. Before reinstatement, the defendant must furnish to DMV a copy of the court receipt indicating all fines and costs are paid, and pay a reinstatement fee. An additional \$10 fee is assessed if the suspension notice was served by a DMV or sheriff representative.

If deferred payment is not requested and any amount remains unpaid after 10 days, the Criminal Clerk's Office will notify the Division of Motor Vehicles to suspend the defendant's driver's license or privilege to drive in Virginia until the debt is paid in full. Interest is charged on all unpaid fines and costs after 40 days. The Criminal Clerk's Office will accept payments by cash, credit card, or check. A \$20 fee will be added to the fines and costs due for any returned check or if a credit card payment is stopped after acceptance. **Fines and costs may be deducted from a defendant's cash bond held by the Court.**

3:22 Restitution

When restitution is ordered, appropriate forms are to be submitted to the judge in Court and distributed to parties by the Criminal Clerk's Office only.

3:23 Witness Reimbursement

All witnesses summoned for the Commonwealth shall be entitled to receive, for each day's attendance, reimbursement for daily mileage at the current rate. To obtain reimbursement, the witness must make application at the Criminal Clerk's Office on the date of the court appearance and provide a copy of the subpoena, attach any receipts, and complete a W-9 tax form. The state does not reimburse any witness subpoenaed for the defendant.

3:24 Request for New Trial

All motions for a new trial or for reconsideration of sentence, shall be by motion in open court, pursuant to the Code of Virginia, Section 16.1-133.1. Such motions must be made in writing on the appropriate form available in the Criminal Clerk's Office and must be filed and heard within sixty calendar days of conviction. If filed before 8:30 a.m., the motion may be heard on the same day. Any motion filed after 8:30 a.m., will be heard on the next day court is in session, unless specified otherwise. A motion for a new trial does not take the place of an appeal or extend the time for appeal. In order to guarantee a new trial, an appeal must be filed.

3:25 Appeals

Appeals must be noted in writing within ten calendar days from the date of conviction. An appeal may be noted by a defendant or by the defendant's attorney by appearing at the Criminal Clerk's Office to complete the appropriate forms. If a defendant has been sentenced to serve time in jail, the presiding judge may set a bond or increase an existing bond to guarantee the

defendant's appearance in Circuit Court. If a new bond is set for the appeal date and defendant is not incarcerated on the conviction, the **defendant must appear** (not counsel) at the Criminal Clerk's Office to post the bond and sign the bond form. At the time of appeal, the Clerk's Office will assign a trial date in Circuit Court for any defendant not requesting a jury trial. If a jury trial is requested at appeal, then the defendant will be assigned a return date in the Circuit Court for later selection of a jury trial date.

3:26 Expungement of Record

Most cases that are eligible for expungement require the filing of a petition in the **Circuit Court** in order to have the record expunged in the General District Court. These include cases in the General District Court in which the defendant is charged with the commission of a crime and,

1. is acquitted, or
2. a *nolle prosequi* is entered, or the charge is otherwise dismissed (including by accord and satisfaction pursuant to Virginia Code Section 19.2-151).

However, if the charge is dismissed because the Court finds that the person arrested or charged *is not the person named in the summons or warrant*, then the **General District Court** shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. See the Code of Virginia, Section 19.2-392.2(G). A verbal request may be made at the time the judge grants the dismissal of the case for mistaken identity or by motion filed in the General District Court with the Criminal Clerk's Office at a later date.

PART FOUR

SMALL CLAIMS PRACTICE AND PROCEDURE

4:1 Filing Small Claims Action

A Small Claims action may be filed with the Small Claims Division, Monday through Friday, between the hours of 8:00 a.m. and 4:00 p.m. Small Claims is for non-lawyers and the forms must be filled out by the plaintiff who is representing himself or herself or is acting as a regular and actual employee of a corporation or partnership.

A Small Claims action may be brought by a Warrant In Debt, when the plaintiff is seeking a money judgment of \$1,000.00 or less, or a Warrant In Detinue, when the plaintiff is seeking recovery of specific personal property valued at no greater than \$1,000.00. The return date must be within sixty days of service, and all parties should be ready for trial on the return date.

4:2 Landlord Tenant Cases

There is no provision for unlawful detainer actions seeking possession of real property in the Small Claims Court.

4:3 Limitation on Number of Cases

No party shall set more than five new cases returnable to any one day on the Small Claims Docket.

4:4 Counsel

Attorneys may not serve in a representative capacity in the Small Claims Division of the General District Court (Code of Virginia, Section 16.1-122.4). Attorneys are permitted to file removals, appeals, and suggestions of bankruptcy on behalf of a party. The clerks will return any motion, garnishment, or other pleading filed in the Small Claims Division which has been signed by an attorney who is not a party to the action.

All parties shall represent themselves in actions before the Small Claims Court except as follows:

1. A corporate or partnership plaintiff or defendant may be represented by an owner, a general partner, an officer, or an employee of that corporation or partnership. An attorney may serve in this capacity if he is appearing pro se, but he may not serve in a representative capacity.
2. A plaintiff or defendant who, in the judge's opinion, is unable to understand or participate on his own behalf in the hearing may be represented by a friend or relative if the representative is familiar with the facts of the case and is not an attorney.

4:5 Fees

See Civil Fees, [Section 2:5](#).

4:6 Service of Process

Notice of process shall consist of a copy of the warrant and shall be served by the method used in the Civil Division of the General District Court. (See [Sections 2:6](#) and [2:7](#).)

4:7 Continuances

Trials are heard on the initial return date. Prior to the initial court date, a continuance may be granted if the new date is available and **agreed to** by all parties. Continuances requested without agreement of all parties may be granted only by a judge for good cause shown. The Small Claims Clerk's Office will attempt to notify both sides if a continuance request is granted.

4:8 Removal of Cases to the Civil Division of the General District Court

A defendant has the right to remove his or her case to the Civil Division of the General District Court at any point preceding the handing down of the decision of the judge. The defendant (or the defendant's attorney) should complete and sign the "Removal to General District Court" form on the back of the warrant and submit it to the Small Claims Clerk's Office or hand it to the judge in the courtroom. A return date in the Civil Division should be selected at the time of removal for about 30 days away, Monday through Thursday. No fees are involved.

4:9 Dismissal of Pending Cases

The plaintiff may dismiss a case at any time prior to the judge's decision as long as notice is provided to the defendant and there is no counter-claim pending.

4:10 Docket Call

The Small Claims Docket shall be called by the presiding judge at 9:30 a.m. on Fridays in Courtroom 2E or 2F. Other dates and times may be established at the discretion of the Court. All cases returnable for trial that date will be called originally to determine if the parties are present and ready to go forward. The judge shall first grant uncontested judgments and review, approve, enter or deny all motions for continuances, interrogatories, rules to show cause, orders of payment, and all other preliminary requests by litigants. Trials will then be heard at the conclusion of the calling of the docket. Contested cases may be transferred to other courtrooms for trial as other judges become available.

4:11 Contested Cases

All cases in Small Claims are returnable to the trial docket on the initial court date. At the end of the case the judge will either enter judgment for the plaintiff or the defendant.

4:12 Requests for Subpoenas for Witnesses and Records

Witness subpoenas should be filed at least ten days prior to trial on the appropriate forms furnished by the Clerk's Office and accompanied by the \$12 sheriff's service fee per party to be served. The Court cannot guarantee service on any request not timely filed.

There is no provision in Small Claims Court for subpoena duces tecum of records and documents. If records or documents are needed, the suit may have to be refiled by the plaintiff in the Civil Division of the General District Court or removed to that court by the defendant.

4:13 Requirement for Filing of Further Pleadings

Upon request, the judge may, when he deems it necessary, require a "Grounds of Defense" to be filed by the defendant. This must be requested by the plaintiff at the time of filing and reviewed by the judge prior to issuance of the warrant. The prescribed method and date for filing the grounds of defense will then be served on the defendant along with the warrant in debt. Since this is a less formal court, grounds of defense are not usually required. There is no provision in the Small Claims Court for requesting that the plaintiff file a bill of particulars.

Counter-Claims are allowed up to Small Claims' jurisdictional limit of \$1,000.00. Although no filing fee is required on a counter-claim, the \$12 sheriff's service fee is required for each party to be served.

4:14 Interpreters

As funding allows, the Court will provide non-English interpreters for Small Claims cases. The Small Claims Clerk's Office should be notified in advance, if possible, when an interpreter is needed.

The Court shall appoint an interpreter for any speech-impaired or hearing-impaired party or witness who requests this assistance. The Small Claims Clerk's Office should be notified at least one week in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is available in each courtroom upon request for any hearing-impaired party or witness.

4:15 Production of Written Agreement

The judge shall have the discretion to admit all evidence that may be of probative value although not in accordance with formal rules of practice, procedure, pleading, or evidence. Original documents, such as contracts, leases, and canceled checks, should be provided if available.

4:16 Interrogatory Summons

Examination of parties by interrogatory proceedings shall be held in open court at the conclusion of the docket call. Out-of-court interrogation of responding parties may be permitted at the discretion of the judge and with the consent and agreement of the party to be interrogated informally or after the oath is administered in open court by the judge. No interrogatory summons shall be continued more than one time. A sheriff's service fee of \$12.00 per party to be served is required at the time of filing, as well as the \$18.00 filing fee.

4:17 Rule to Show Cause and Capias

After a judge authorizes a rule to show cause or capias in court, the requesting party should proceed to the Small Claims Office. The clerk will prepare and issue the rule to show cause or capias form, however, the requesting party must pay the sheriff's service fee of \$12.00 per party to be served. Once issued and served, such pleadings may be dismissed only by a judge for good cause shown.

4:18 Appeals

Either the plaintiff or the defendant has the right to appeal to the Circuit Court any decision of the Small Claims Court where the amount in controversy exceeds \$50.00. Appeals must be noted **in writing** within ten calendar days of judgment and perfected **in person** within thirty calendar days of the judgment by posting any required bond and the writ tax. The writ tax must be paid by cash only. All bonds must be in the form of cash, postal money order, or corporate surety. When bond is by corporate surety, a bondsman must appear before the clerk to sign the appeal form. The form for filing an appeal is available in the Clerk's Office and may be filed with the clerk during business hours, Monday through Friday, unless otherwise authorized by a judge. An attorney may appeal a case on behalf of a plaintiff or defendant in the Small Claims Division.

4:19 Satisfaction of Judgment

Pursuant to the Code of Virginia, Section 16.1-94.01, once a judgment has been satisfied the judgment creditor must notify the Court **in writing** of this satisfaction within 30 days of payment or satisfaction of the judgment. A Notice of Satisfaction of Judgment form (DC-458) is available

in the Small Claims Office for this purpose. It complies with the code section that states: *Such notice shall include the docket number, the names of the parties, the date and amount of the judgment, and the date of the payment or satisfaction.*

If the judgment creditor fails to notify the Court within thirty days of satisfaction of judgment, then the judgment debtor may file a motion requesting that the Court order the judgment to be marked satisfied after notice to the judgment creditor. Upon sufficient proof, the judge can also order the judgment creditor to pay the judgment debtor's costs. The form for a Motion for Judgment to be Marked Satisfied (DC-459) is available in the Small Claims Office and requires the \$18 filing fee plus service costs (such as the Sheriff's service fee of \$12 per person to be served). The Court's disposition of the motion may be appealed to the Circuit Court if the original judgment principal is greater than \$50.00.

PART FIVE
TRAFFIC COURT PRACTICE AND PROCEDURE

5:1 Courtroom Assignment

Cases shall be assigned to one of either four or five courtrooms by the Docket Supervisor of the Traffic Division. The docket for each court shall be posted on the traffic docket bulletin board located next to Courtroom 1A by 9:00 a.m. on the day of court. All cases are listed alphabetically by defendant's last name, except a separate listing is provided for motions, citizen complainant cases, and continued cases.

5:2 Docket Call

The presiding judge in each courtroom shall begin calling the docket at 9:30 a.m., starting with the officer with the least number of cases.

All pleas of guilty shall be determined and disposed of during the docket call.

All pleas of not guilty or *nolo contendere* may be either set aside and heard as a contested case at the conclusion of the docket call, or heard during the initial call of the docket, at the sole discretion of the presiding judge, except in accident cases. The Court's policy is to not subpoena witnesses in accident cases unless the defendant first appears and enters a plea of not guilty or enters a written plea of not guilty. In these instances, the case will be continued to the officer's next court date to allow sufficient time to subpoena the witnesses.

If a defendant fails to appear on any infraction or accident case, the judge, at his discretion, may try the case in the defendant's absence.

5:3 Bond Reduction Motions

All motions for a bond reduction must be filed in writing with the Traffic Clerk's Office by 3:00 p.m., on the afternoon before the requested hearing date, with appropriate notice to the Commonwealth's Attorney **and Court Services Division**. Forms for this purpose are available from the Traffic Clerk's Office and the Court Services Division. **See Appendix, "Motion for Bond Reduction"**. Motions are usually argued in Traffic Courtroom 1B. If the defendant also has criminal charges pending and the bond reduction motion includes these charges, the Criminal Clerk's Office must also be notified. The bond reduction motion for all charges would then be heard during the Criminal Arraignment and Motions Docket at 9:30 a.m. in Courtroom 2H or 2F.

Note: All bond reduction motions for traffic cases scheduled to be heard in either the Town of Herndon or the Town of Vienna must be filed with the Fairfax Traffic Division Clerk's Office located in Room 176 in the Fairfax Judicial Center. Follow the procedures as noted above with the exception that the Herndon Prosecutor (Manual Capsalis, 703-525-2260) or the Vienna

Prosecutor (David Hall, 703-691-4100) must be notified instead of the Commonwealth's Attorney. Bond reduction motions on town cases will be heard in Traffic Courtroom 1B in the Judicial Center, **not** in the Town of Herndon or Vienna. Motions on Fairfax CITY cases should be filed with the City Court Clerk's Office.

5:4 Discovery Motions

Requests for discovery require approval of a judge and should be filed with the Traffic Clerk's Office no later than 48 hours before the trial on the Discovery Order form provided by the Clerk's Office. **See Appendix, "Discovery Order"**. Agreed motions, signed by the Commonwealth's Attorney, may be dropped off in the "Discovery" basket in Chambers (Room 232) for a judge's signature. Once signed by the judge, the order should be retrieved by the attorney and then filed with the Traffic Clerk's Office before the 48-hour deadline. The attorney should advise the clerks that the motion is already signed and therefore will not require a hearing. Contested motions for discovery require a court hearing and should be filed in the Clerk's Office before 3:00 p.m., with notice to the Commonwealth's Attorney or other prosecuting attorney. Any motion filed in the Clerk's Office before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m. in Courtroom 1B, unless specified otherwise. Responses to discovery are returnable to the Court, by 9:00 a.m. on the trial date. See Rules of Virginia Supreme Court, Rule 7C:5, for additional information and requirements.

5:5 Other Motions

Motions for Release of Vehicle under Administrative Impoundment (Code of Virginia, Section 46.2-301.1) and motions for return of a driver's license seized through Administrative Suspension of Driver's License (Code of Virginia, Section 46.2-391.2) must be filed in the Traffic Clerk's Office no later than 3:00 p.m. in order to be placed on the next day's traffic docket. These motions must be filed with the Fairfax City Clerk when pertaining to Fairfax City cases.

Motions for cases in Fairfax City and the Towns of Herndon and Vienna will be heard in the appropriate city or town court unless the motion is set for a day when the satellite court is not in session, in which case the motions will be heard on the traffic docket at the Fairfax Judicial Center. These motions are heard in various traffic courtrooms at the Fairfax Judicial Center, so interested parties will need to consult the bulletin boards for courtroom assignments.

The appropriate Commonwealth's Attorney, City Attorney, or Town Prosecutor must be notified of the court date at the time of filing. Denial of these motions may be appealed within ten calendar days by posting the writ tax and signing an appeal form in the **Civil Division** (Room 288) of the General District Court.

5:6 Administrative Impoundment of Motor Vehicle (46.2-301.1)

Any driver who is the owner of a vehicle impounded under the Code of Virginia, Section 46.2-301.1, may petition the General District Court to review the impoundment (see [Section 5:5](#) above) during the thirty-day administrative impoundment period. Motion and Order for Release of Vehicle forms (DC-499) are available at the Traffic Clerk's Office. If the driver/owner demonstrates to the Court by a preponderance of the evidence that there was no probable cause for either the arrest or the warrant, the court shall rescind the impoundment and the Commonwealth shall be obligated to either pay all reasonable costs of the impoundment or else reimburse the driver for that amount.

An owner who was not the driver of the motor vehicle may also petition the Court on the basis that he did not know the license of the driver was suspended, did not consent to the use of the vehicle by the driver, or that the immediate family has only one motor vehicle and that the impoundment would result in substantial hardship. However, the release of an impounded motor vehicle under these circumstances will not result in reimbursement by the Commonwealth for the costs of impoundment.

If the underlying charge against the driver is dismissed, reduced to a lesser offense, or if he is acquitted on the charge, the impoundment is rescinded and the costs of impoundment will be paid by the Commonwealth. **Reimbursement or payment should be requested at the time of trial or motion.**

When a request for reimbursement is made by the person who incurred the costs of impoundment, a receipt from the towing company must be produced so the Traffic Clerk can process the reimbursement payment. Also, a W-9 tax form must be completed at the counter or submitted.

5:7 Administrative Suspension of Driver's License

Any person whose license or privilege to drive has been administratively suspended pursuant to the Code of Virginia, Section 46.2-391.2 may file a motion with the General District Court to review the suspension within the seven-day suspension period (see [Section 5:5](#) above). Forms for the Motion for Rescission of Administrative Suspension (DC-202) are available at the Traffic Clerk's Office. Motions must be filed by 3:00 p.m. in order to be placed on the 9:30 a.m. docket the following day. If the driver fails to appear at the hearing without just cause, his right of review will be waived.

The Court shall rescind the suspension if the driver proves by a preponderance of the evidence that either the officer did not have probable cause for the arrest or that there was not probable cause to issue the petition or warrant. If the Court orders the suspension to be rescinded, the license shall be promptly returned to the driver, unless the license has been otherwise suspended or revoked. The clerk shall give to the driver a certified copy of the order rescinding the suspension and transmit the order to the Division of Motor Vehicles (DMV). The driver should

carry the certified copy of the order of rescission with him for the remainder of the rescinded suspension period in case he is stopped before the signed order reaches the Division of Motor Vehicles.

The returned driver's license may be picked up at the Traffic Clerk's Office following the granting of a motion to rescind or at the expiration of the suspension period. All licenses not personally picked up are mailed to the license holder in approximately eight days.

If the driver is tried and acquitted of the underlying charge after the period of suspension has expired, or the charge is dismissed either during that period or at trial, the administrative suspension is immediately rescinded. The Clerk's Office will automatically notify DMV. Whenever the underlying charge is reduced, a separate motion is required to vacate the administrative suspension of the license. This motion may be made at the time of trial or at a later date.

5:8 Determination as to Requirement for Counsel

In each individual case, the judge shall determine if the charge is such that the defendant must either be represented by counsel or waive the right thereto. When it is determined that counsel or a waiver thereof is required, the judge shall so inform the defendant in accordance with the Code of Virginia, Section 19.2-157.

When a defendant indicates his desire to retain counsel, the judge shall continue the case to the officer's or complainant's next available court date for trial. Also, the judge may require the defendant to sign a "Waiver of Counsel" form to allow the case to proceed on the trial date whether or not counsel has been retained, or the judge may assign an intermediate Information on Attorney (IAD) date for the defendant to return to Court with written confirmation that an attorney has been retained. If the Court receives the "Information on Attorney" card, signed by the attorney, prior to the IAD date, the defendant does not have to appear on that day. If the card is not returned, the defendant must appear in court to explain why an attorney has not been retained. Any defendant who fails to appear or otherwise comply with the IAD requirements, may be subject to the issuance against him of a capias/bench warrant, rule to show cause, and/or a notice of bond forfeiture to the defendant or any bondsman or third party surety, as the Court deems appropriate. Any cash bond posted by the defendant will be forfeited without further notice.

If any defendant desires court appointed counsel, the judge may appoint a public defender to handle the case on the same day or continue the case to the officer's or complainant's next court date for trial and send the defendant to the Court Services Division for an interview to determine eligibility. If the defendant qualifies, counsel shall be appointed and the defendant advised of his trial date by the clerk or judge. If the defendant does not qualify, he shall be permitted the right to retain counsel as provided hereinbefore.

Once counsel has entered an appearance or been appointed to a case, counsel may not withdraw without leave of Court after notice to the client. Substitution of counsel is permitted with signed

consent of defendant and both attorneys. A form to withdraw/substitute counsel is available at the Clerk's Office. **See Appendix, "Appearance of Counsel" and "Motion to Withdraw/Substitute Counsel".**

If any defendant desires to waive his right to counsel, he shall be required to execute a "Waiver of Counsel" form.

5:9 Requests for Subpoenas for Witnesses and Records

Requests for subpoenas for witnesses should be filed at least ten working days prior to trial on the appropriate forms furnished by the Traffic Clerk's Office. The Court cannot guarantee service on any request not filed at least ten working days before trial. Service by private process may be approved by a judge for good cause shown.

Witnesses for cases involving an accident are no longer subpoenaed for the initial court date. If the defendant appears on the initial court date and pleads not guilty or enters a written plea of not guilty, the case will be continued for trial and witnesses will be subpoenaed for the new date.

Requests for subpoenas duces tecum should be filed at least 15 days prior to trial on Form DC-336 (original and three NCR copies - do not xerox). Requests may be dropped off in the "Discovery" basket in Chambers for a judge's signature (see [Section 5:4](#)) or may be filed as a motion with notice provided to the Commonwealth's Attorney or other prosecuting attorney. Any motion filed before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. If the request is to be served outside of Fairfax County, or if the documents required are not located within the local vicinity, the motion should be filed at least 21 days prior to the trial date. All documents and records will be ordered returnable to the Court.

5:10 Interpreters

The Court will provide non-English interpreters for all traffic court proceedings and, in certain instances, for attorney-client interviews. Spanish interpreters are available daily for interpreting in court and thus advance notice is not required. For all other languages, the attorney, defendant, or defendant's family member should notify Court Services in Room 211C of the Judicial Center (703-246-3045) at least one week in advance of the court date to allow sufficient time for scheduling of the requested language interpreter.

Court appointed counsel may request that Court Services schedule an interpreter to assist with attorney-client interviews if no other arrangements can be made. The interview will be scheduled in a private room at the Judicial Center during the afternoon when an interpreter is available. If the client is in jail, interpreters are usually available to assist with interviews at various times throughout the day. The Court provides non-English language interpreters for court proceedings and client interviews only. Private arrangements must be made for translation of documents.

The Court shall appoint an interpreter for any speech-impaired or hearing-impaired party or witness who requests this assistance. The Court Services Division in Room 211C (703-246-3045) should be notified at least one week in advance to arrange for a certified interpreter. An assisted listening device is available in each of the courtrooms upon request for any hearing-impaired party or witness.

5:11 Prepayments

The Supreme Court designates by rule the traffic infractions for which a pre-trial waiver of appearance, plea of guilty, and fine/costs payment can be accepted. Offenses which may be prepaid are listed in Rule 3B:2, the Uniform Fine Schedule, in Volume 11 of the Code of Virginia. **Effective January 1, 2001, even cases involving accidents may be prepaid if the charge is listed in the Uniform Fine Schedule.** This schedule is applied uniformly throughout the Commonwealth, and a clerk or magistrate may not impose a fine and cost different from the amounts listed. The schedule does not restrict the fine a judge may impose in any case that is not prepaid and for which there is a court hearing.

If a defendant wishes to prepay one of the offenses listed, he should submit a copy of his summons along with payment to the Court. The amount of payment required may be obtained by calling the Court's Information Line, visiting the court's website, or calling the Traffic Clerk's Office or magistrate's office. Payments are accepted by mail or at any magistrate's office up to five days before the court date. Individuals may also pay by credit card using the Court's interactive voice response system, available nearly 24 hours a day. To use this method, call the Court's Information Line at 703-691-7320 and then press ②,③,① (pausing between each number). The caller will be asked to provide either the summons or case number and must then supply other information following the system prompts. See [Section 1:7](#) for additional information.

Late payments for Fairfax County, Herndon, or Vienna cases will be accepted at the Magistrate's Office, located at the Adult Detention Facility, until 11:00 p.m. two days before the court date or at the Traffic Clerk's Office in the Fairfax Judicial Center until 4:00 p.m. on the day before the court date. Late payments for Fairfax City cases will be accepted until 3:00 p.m. on the day before the court date at the Fairfax City Clerk's Office.

5:12 Continuances

No continuance shall be granted to either the Commonwealth or defendant as a matter of right on the original trial date of any case. The continuance of any case shall be authorized by a judge or by a clerk acting pursuant to authority granted by the Chief Judge. Such request for a continuance must be made according to the procedures described below.

It is the responsibility of the defendant or the defendant's attorney to contact the Court to determine if the continuance is approved and if so, the new trial date. If the continuance is granted before the trial date, the requesting party may be required to notify any witnesses of the continuance.

If requesting a first continuance on a case involving an accident, the defendant must indicate whether he intends to plead guilty or not guilty. If the defendant intends to plead not guilty, witnesses will be subpoenaed and the case will be tried on the new date. The continuance procedures are as follows:

1st Continuance Request

Granted by the Traffic Clerk's Office in person or by telephone, except:

Serious Misdemeanors (when defendant is represented by counsel) including

Driving Under the Influence, Speed to Elude, and 2nd or Subsequent Driving on Suspended License (DOS) -

Requires written request and approval of a judge.

Serious Misdemeanors (when defendant is not represented by counsel) including

Driving Under the Influence, Speed to Elude, and 2nd or Subsequent Driving on Suspended License (DOS) -

Requires filing of a motion by 8:30 a.m. with notice to the Commonwealth's Attorney (except Town cases) and appearance before a judge who will determine whether to grant approval.

2nd and Subsequent Requests

Requires written request and approval of a judge, except:

Driving Under the Influence and Cases Involving Accidents

Requires written request, consent of the Commonwealth's Attorney or Town Attorney, and approval of a judge.

When written request and approval of a judge is required, defense counsel must first obtain a continuance request form from the Traffic Clerk's Office. **See Appendix, "Criminal/Traffic Continuance Request"**. On a second or subsequent request, counsel is required to obtain the agreement of the Commonwealth's Attorney or appropriate Town Attorney before filing the continuance request form in the Traffic Clerk's Office.

Most written requests are reviewed by a judge within one working day of filing. The party requesting the continuance must call Judges' Chambers (703-246-2153) between 8:00 a.m. and 4:00 p.m. to determine if the continuance request was approved. If the officer's next court date is known, the clerk will provide the new date on approved continuances. Otherwise, the Traffic Clerk's Office must be contacted after the initial court date to obtain the new trial date.

In the event of an emergency, the clerk can place a note on the case up until 9:30 a.m. the morning of court to request a continuance. This note does not guarantee a continuance and it may be extremely difficult to contact the Traffic Clerk's Office by phone in the morning prior to court. The party requesting the continuance must call back after 2:00 p.m. on the court date for the judge's decision.

5:13 Failure of Defendant to Appear on Summons

If a defendant fails to appear on a summons for a **misdemeanor** violation, the Court shall continue the case to the officer's next court date and either authorize the officer to obtain a failure to appear warrant at the end of 10 days, or direct the clerk to issue a capias/bench warrant for failure to appear.

If a defendant fails to respond to a summons for a traffic **infraction**, he shall be tried in his absence and an additional \$10.00 trial-in-absence fee shall be assessed. On conviction, the clerk shall send notice to the defendant of the trial in absence and the amount of the fine and costs assessed.

5:14 Failure of Defendant to Appear on Warrant

If any defendant shall fail to respond to a warrant for any violation, the Court shall continue the case to the officer's next court date, and direct the issuance of a capias on the defendant for failure to appear and/or a notice of forfeiture to the defendant or any bondsman or third party surety. Any cash bond posted by the defendant will be forfeited without further notice.

5:15 Bond Forfeiture

If a defendant released on a secured bond fails to appear in court, any cash bond posted by the defendant will be immediately forfeited.

If a defendant fails to appear while on a bond secured by a bonding company or posted by a third party, then the judge will authorize a show cause summons against the bonding company or third party. The Traffic Clerk's Office will issue a Show Cause Summons – Bond Forfeiture, Civil (DC-482) within 45 days of the failure to appear, pursuant to Code of Virginia, Section 19.2-143.

On the court date, if the bonding company or third party is found in default, the show cause will be continued at least 60 days for entry of a civil judgment. When judgment is entered, any third party bond will be immediately forfeited. A bonding company will be sent notice stating that the judgment must be paid to the Civil Division within 15 days or their bonding privileges will be revoked in the General District Court. The bonding company or third party has up to one year from the date of the finding of default in which to surrender the defendant and file a motion requesting that the judge vacate the forfeiture or reduce the amount of the forfeiture to offset their costs of producing the defendant. All motions must be filed in the Civil Division, Room 288.

5:16 Payment of Fines and Costs

Any defendant convicted of a traffic infraction or misdemeanor shall pay all fines and costs assessed immediately. Extra time for the payment of such fines and costs will be allowed **if requested in writing by the defendant**, however, an additional \$10 fee will be assessed if deferred payment or an installment plan is granted. The defendant must appear at the fine paying room on the day of trial or later at the Traffic Clerk's Office to complete the appropriate forms. If the defendant fails to make payment as prescribed, the unpaid debt will be sent to the Court's collection agency and the Department of Motor Vehicles (DMV) will be notified to suspend the defendant's driver's license or privilege to drive in Virginia until the debt is paid in full. Before reinstatement, the defendant must furnish to DMV a copy of the court receipt indicating all fines and costs are paid, and pay a reinstatement fee. DMV may assess an additional fee if the suspension notice was served by a DMV or Sheriff representative. If deferred payment is not requested and any amount remains unpaid after 10 days, the Traffic Clerk's Office will notify DMV to suspend the defendant's driver's license or privilege to drive in Virginia until the debt is paid in full. Interest is charged on all unpaid fines and costs after 40 days.

The Traffic Clerk's Office will accept payments by cash, credit card, or check. A \$20.00 fee will be added to the fines and costs for any returned check or if a credit card payment is stopped after acceptance. **Fines and costs may be deducted from a defendant's cash bond held by the Court.**

5:17 Change of Address

The Traffic Clerk's Office should be notified of any change of **mailing** address for any defendant prior to conviction. The Court must send written notice to defendants within two days after conviction of the impending suspension of their license or privilege to drive a motor vehicle in Virginia if the fines and costs are not paid within ten days of conviction. Pursuant to the Code of Virginia, Section 46.2-395, "Notice shall be provided to the person at the time of trial or shall be mailed by first class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. No other notice shall be required to make the suspension effective."

5:18 Suspension of Driver's License

Suspension periods start when the license is surrendered to either the Court or the Department of Motor Vehicles, or 180 days from the date the judgment of the court becomes final, whichever occurs first.

5:19 Restricted Driver's License – Reckless Driving

The court may, in its discretion, and for good cause shown, grant a Restricted Driver's License (RDL) to a defendant who has been convicted of reckless driving and whose driver's license is ordered suspended as a result. All fines and costs must be paid before issuance of an RDL. The driver may petition for an RDL at the time of conviction or by motion at a later date. Motions filed before 8:30 a.m. can be heard on the same day on the regular 9:30 a.m. docket. Prior to issuance of an RDL, the defendant must surrender a valid driver's license. An RDL worksheet must be prepared in advance for consideration of the terms by the presiding judge. Pursuant to the Code of Virginia, Section 46.2-392, the conditions applicable to the RDL are:

- travel to and from work (provide employer's name and address);
- travel during the hours of the defendant's employment;
- travel to and from school if the person is a student (provide name of school);
- such other medically necessary travel, as the court deems appropriate,
- travel to transport a minor child to school, day care or to medical providers.

An RDL issued on reckless driving does may not involve participation in a VASAP program.

5:20 Request for Certificate of Analysis

A defendant or defendant's counsel of record may request from the Traffic Clerk's Office a copy of any certificate of analysis in a case, pursuant to Code of Virginia, Section 19.2-187. The request must be in writing filed at least ten days prior to trial and shall clearly state in its heading "Request for Copy of Certificate of Analysis." A specific form is not required in the Fairfax County General District Court. Notice of the request must be supplied to the Commonwealth's Attorney.

5:21 Driving While Intoxicated

Participation in the Virginia Alcohol Safety Action Program (VASAP) is required for all first and second offense convictions of DWI unless the court for good cause shown declines to order it. Only participation in a local certified VASAP program is permitted. The terms and conditions of court-ordered VASAP participation, including the granting or denying of permission for the defendant to receive a restricted driver's license are contained in the Restricted License Order & Entry into VASAP, (DC-265). The judge must require the defendant to pay to VASAP a fee of \$300 when entering the program unless the judge finds that the defendant is indigent. Failure to pay this fee may be grounds for revoking the VASAP participation or for suspending the driver's license. Following the end of a suspension, DMV will not return a suspended license to any person who has not completed a required VASAP program pursuant to a DWI conviction unless the Court has waived the VASAP requirement for good cause.

For a first offense DWI, the individual's license is suspended for one year. In the case of conviction of a second offense DWI, the individual's license is revoked for a period of three years. The individual's license is revoked indefinitely for convictions of a third offense DWI within ten years of the other two convictions, maiming of another as a result of DWI, or involuntary manslaughter as a result of DWI (see Code of Virginia, Section 46.2-391).

The judge has a wide range of options regarding the future driving privilege of the defendant who is participating in VASAP, including whether or not a restricted driver's license (RDL) will be authorized and whether or not deferred commencement of driving privileges will be required. A four-month deferral is required for second offenders before determining whether to grant RDL privileges. The Court may also require that the driver only operate a motor vehicle equipped with an ignition interlock device for any period of time not to exceed the period of license suspension and other restrictions. Ignition interlock is required upon conviction of a second or subsequent offense if participating in VASAP and an RDL is desired.

The judge may order the issuance of a restricted driver's license for any VASAP participants, but only for the following statutorily-authorized purposes:

- To and from place of employment.
- To and from VASAP or other alcohol rehabilitation programs.
- Driving during working hours if driving a vehicle is a necessary incident of employment (but does not include operation of a commercial motor vehicle).
- To and from school if such a person is a student, upon proper verification to the court that such person is enrolled in a continuing program of education.
- Medically necessary travel as the court deems necessary and proper upon written verification of need by a licensed health care professional.
- Travel necessary to transport a minor child under the care of the person to and from school, day care, and facilities housing medical service providers.

The court requires that all fines and costs be paid before issuance of an RDL. The defendant may petition for an RDL at the time of conviction or by motion on a later date. A worksheet, available in the Traffic Clerk's Office, must be filled out and submitted when requesting an RDL. On the worksheet, the petitioner must provide the Court with the specific purpose for the hours requested on the restricted license (see Code of Virginia, Section 18.2-271.1E). Also, the name and address of any employer or school must be provided. Prior to issuance of an RDL, the defendant must surrender a valid driver's license. **See Appendix, "Restricted Driver's License Application/Worksheet."**

The restricted license order (original of the order) is provided to the offender after enrollment into VASAP at the Traffic Clerk's Office. All referrals to a VASAP program will be made through the Fairfax County ASAP program. If an individual does not reside in Fairfax County or is enlisted in the military, the Fairfax ASAP will refer him to another program without fee unless further monitoring is ordered by the court. The form order, Restricted License Order & Entry into VASAP (DC-265) is issued by the Clerk's Office after obtaining the judge's signature and is given to the defendant to take to the local Fairfax ASAP office. After intake, Fairfax ASAP will endorse the back of the original of the order with a proof of enrollment and give it to the offender who should take it to DMV for issuance of a new restricted license.

A request for a restricted driver's license may be continued at the judge's discretion pending a review and recommendation by the Fairfax ASAP program. If Fairfax ASAP issues a letter recommending a restricted driver's license, then a motion must be filed to obtain the judge's approval for the issuance. Motions filed before 8:30 a.m. can be heard on the same day at the regular 9:30 a.m. docket call. However, such motions must be heard before the sentencing judge and thus it is recommended the petitioner call ahead to ensure the sentencing judge will be available.

A resident of Fairfax County who has been convicted in another state of a DWI violation similar to the Code of Virginia, Section 18.2-266, and whose privileges to operate a motor vehicle in Virginia has been revoked, may petition the General District Court to be assigned to Fairfax ASAP and issued a restricted driver's license. The petitioner needs to supply the Court with a certified copy of the conviction and a certified copy of his eleven-year DMV driving record.

5:22 Adjudication of Habitual Offenders

The procedures for the General District Court determining or adjudicating an individual an habitual offender were repealed as of July 1, 1999 (Code of Virginia, Sections 46.2-351 through 46.2-355). The circumstances under which those persons who were declared an habitual offender prior to its repeal may petition the court to have their privileges to operate a motor vehicle restored are governed by statute in the Code of Virginia, Sections 46.2-358 through 46.2-361. A petition filed by the individual seeking to have his privilege to drive restored initiates the process. The petitioner may file on a Petition For Restoration Of Driving Privilege Habitual Offender, (DC-485). A copy of the petition must be served on the Commonwealth's Attorney and on the Commissioner of the Department of Motor Vehicles. The petition for restoration may be filed either in the court in which the person was found to be an habitual offender, or in the circuit court of the jurisdiction in which the petitioner resides. General district courts have the authority to entertain petitions for restoration only from those habitual offenders who were adjudicated as habitual offenders by that court.

The hearing must be set for a date that is at least 30 days after service of the petition on the Commonwealth's Attorney and the Commissioner of the DMV. If the determination of habitual offender status was based in part on convictions involving driving under the influence of alcohol, the petitioner must allege and prove that at the time of such conviction(s), he was addicted to or psychologically dependent on the use of alcohol or other drugs, and he is not now addicted or dependent. Such a petition may be filed five years from the date of adjudication if full driving privileges are sought; however, a petition may be filed three years after adjudication if a restricted driver's license to drive in the course of employment, to and from work and/or for medically necessary travel is sought. See Code of Virginia, Section 46.2-360. The Court, before granting a petition pursuant to this section, must order an evaluation of the person by the Virginia Alcohol Safety Action Program (VASAP). If a restricted driver's license is granted, then the person shall be supervised by VASAP during the duration of the term of the license.

5:23 Witness Reimbursement

All witnesses summoned for the Commonwealth shall be entitled to receive, for each day's attendance, reimbursement for daily mileage at the current rate. To obtain reimbursement, the witness must make application at the Traffic Clerk's Office on the date of the court appearance and provide a copy of the subpoena, attach any receipts, and complete a W-9 tax form. The state does not reimburse any witness subpoenaed for the defendant.

5:24 Request for New Trial

All motions for a new trial or for reconsideration of sentence, shall be by motion in open court, pursuant to the Code of Virginia, Section 16.1-133.1. Such motions must be made in writing on the appropriate form available in the Traffic Clerk's Office and must be filed and heard within sixty calendar days of conviction. If filed before 8:30 a.m., the motion may be heard on the same day. Any motion filed after 8:30 a.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. A motion for a new trial does not take the place of an appeal or extend the time for appeal. In order to guarantee a new trial, an appeal must be filed.

5:25 Appeals

Appeals must be noted in writing within ten calendar days from the date of conviction. An appeal may be noted by the defendant or by the defendant's attorney by appearing at the Traffic Clerk's Office to complete the appropriate forms. If a defendant has been sentenced to serve time in jail, the presiding judge may set a bond or increase an existing bond to guarantee the defendant's appearance in Circuit Court. If a new bond is set for the appeal date, the **defendant must appear** (not counsel) at the Clerk's Office to post the bond and sign the bond form. At the time of appeal, the Clerk's Office will assign a new trial date in Circuit Court for any defendant not requesting a jury trial. If a jury trial is requested at appeal, then the defendant will be assigned a return date in the Circuit Court for later selection of a jury trial date.

5:26 Expungement of Record

Most cases that are eligible for expungement require the filing of a petition in the **Circuit Court** in order to have the record expunged in the General District Court. These include cases in the General District Court in which the defendant is charged with the commission of a crime and,

1. is acquitted, or
2. a *nolle prosequi* is entered, or the charge is otherwise dismissed.

However, if the charge is dismissed because the Court finds that the person arrested or charged is *not the person named in the summons or warrant*, then the **General District Court** shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. See Code of Virginia, Section 19.2-392.2(G). A verbal request may be made at the time the judge grants the dismissal of the case

for mistaken identity or a motion may be filed in the General District Court with the Traffic Clerk's Office at a later date.

PART SIX
COURT SERVICES DIVISION

6:1 Pretrial Release and Arraignment Hearings

The Court Services Division provides information to magistrates and judges to assist in their determination whether to release a defendant on personal recognizance or third party custody while awaiting trial. Court Services staff are available daily to interview incarcerated defendants and obtain data with regard to prior criminal history, employment, residence, and other pertinent information which would assist in determining the appropriate bond status. Information is also gathered with regard to eligibility for court appointed counsel. The information collected is confidential and may only be reviewed by a magistrate, judge, commonwealth's attorney, or defense counsel.

Recommendations regarding bond are first presented to the magistrate on duty at the Adult Detention Center. If the defendant is not released, recommendations are presented to the presiding judge at the 8:30 a.m. prisoner arraignment hearing (see Part Three, 3:1).

6:2 Bond Reduction Motions

All motions for bond reduction must include appropriate notice to the Court Services Division. Information collected by staff during the pretrial investigation process will be available for review by the Commonwealth's Attorney and defense counsel in the Court Services Office before court up until 8:45 a.m. Xerox copies of the information may be made in the Court Services Office only.

6:3 Supervised Release

Supervised Release (SRP) offers an alternative to incarceration for defendants awaiting trial who are unable to post bond. To qualify for supervised release, a defendant must maintain a residence in the Northern Virginia/Washington, D.C. area, maintain or seek employment, and have family ties to the community. Additionally, the defendant must not have a prior criminal history of violent offenses and the current charge must not be of a violent nature. Defendants must agree to maintain contact with Court Services staff, attend meetings and maintain contact with a substance abuse/mental health counselor (if required), attend all court hearings pending final disposition, refrain from further violations of law, and agree to random urine screens.

Court Services staff review all defendants awaiting trial to determine eligibility for the program. Defense counsel may seek an SRP referral at the Bond Reduction Motion hearing. Also, the Court has the option of a direct placement, by making a referral to the program without an SRP

investigation, at any time during the pretrial stage. Once accepted into the program, a written participation agreement is signed by the defendant and Court Services staff. Failure to comply with all terms of the agreement while pending trial will result in a capias being authorized for the defendant's arrest.

For additional information on the supervised release program (SRP), see Court Services in Room 211C of the Judicial Center or call 703-246-3045.

6:4 Court Appointed Counsel

The Court Services Division is responsible for assigning court appointed cases to either the Public Defender or private attorneys. The Division maintains a list of attorneys who have indicated their willingness to serve as court appointed counsel. For further information, [see Part Seven](#) in this publication.

6:5 Appointment of Interpreters

The Court Services Division is responsible for the scheduling of interpreters for non-English speaking and speech or hearing-impaired defendants in criminal, traffic, civil, and small claims cases. If the judge determines that a case cannot go forward without an interpreter, the judge will continue the case and direct Court Services staff to have an interpreter available on the next court date. Spanish interpreters are available in the courtrooms daily for criminal and traffic matters. If any attorney or officer is aware that an interpreter will be needed for a language other than Spanish, they should contact the Court Services Division as early as possible before the first court date. For Civil or Small Claims cases, any attorney or party to a suit who is aware that an interpreter will be needed should contact the Court Services Division as soon as possible. Interpreters for Civil and Small Claims cases are scheduled only as needed.

With advance notice to Court Services, interpreters can be provided for court appointed attorney-client interviews of incarcerated defendants or clients out on bond. Contact the Court Services Division for more information concerning this service. The Court does not provide interpreters to assist in translation of documents.

6:6 Scheduling of Cases for Earlier Court Dates

The Court Services Division monitors the pretrial status of all incarcerated defendants and, whenever possible, arranges for earlier court dates for those defendants who cannot obtain bond while being held on misdemeanor charges. Defense counsel may request that Court Services staff "move up" a case onto an earlier docket for any defendant charged with a misdemeanor whose court date is more than one month away from the date of arrest.

6:7 Court Services Probation Program

The Court Services Division provides probation supervision for certain misdemeanor offenders who have been sentenced to jail as well as to certain offenders convicted of Class 5 or Class 6 felonies. Offenders may be placed on probation by the Court. Those placed on probation must report to the Court Services Office immediately upon exiting the courtroom following assignment. If released from jail after the office has closed, the offender must report to the Court Services Office by 11:00 a.m. on the next business day. Program staff will schedule monthly meetings with offenders and monitor their compliance with Court ordered community service, restitution, substance abuse and mental health referrals, payment of court fines and costs, and required drug screening. Upon successful completion of the program, offenders may be eligible to have all or part of their sentence suspended. Failure to comply with established conditions of probation, or any violations such as further arrests, will result in the offender being brought back before the sentencing judge for reconsideration.

PART SEVEN
COURT APPOINTED ATTORNEY PROCEDURES

7:1 Court Appointed Attorney List

The Court Services Division maintains a list of attorneys who have indicated their willingness to serve as court appointed counsel for defendants who meet the eligibility requirements. Any attorney wishing to be added to the Court Appointed Attorney List must fill out an application available in the Court Services Office in Room 211-C in the Judicial Center. In order to be added to the list, an attorney must:

- be licensed to practice in Virginia;
- maintain an office in Fairfax County;
- provide a valid Virginia Bar Association card;
- complete a Court Appointed Attorney Application and W-9 form for tax identification; and
- attend an orientation session with Court Services staff.

Attendance at the annual Fairfax Bar Association CLE for Court Appointed Counsel or viewing of a training video is also required.

7:2 Assignment Guidelines

The Court Services Division is responsible for assigning court appointed cases to either the Public Defender or private attorneys. For those cases not assigned to the Public Defender, the Court Services staff use an automated rotation system for most appointments. All attorneys must remain on the list for at least six months before being eligible for felony cases, regardless of years of experience. A separate list of more experienced attorneys, as approved by the Court, is maintained for serious felonies such as rape, robbery, or murder.

Before appointment of an attorney to any case, the Court Services staff will first contact the attorney's office to determine if he or she is available for the scheduled trial date. No continuances will be granted for conflicts in schedule.

Copies of the warrants and a time sheet should be picked up by the attorney in the Court Services Division, Room 211-C. Incarcerated defendants are to be seen by their appointed counsel within two working days of the appointment.

Failure of an attorney to meet with the client within the specified time may result in the judge appointing a new attorney. No expenses will be allowed the first court appointed attorney if the case is reassigned for failure to meet with the client.

7:3 Case Assignment

Court Services staff will contact the attorney's office and request to talk to the attorney or a staff person who is **authorized** to accept cases. Court Services staff will provide the attorney with the defendant's name and charges; the court date and time; the defendant's bond status; and the case information and billing documentation. In most instances, this package of defendant information will be available for pick-up by the attorney in the Court Services Office by the next working day.

7:4 Attorney's Responsibilities

The attorney's responsibility is to ensure that the defendant is seen in a timely manner and receives quality service. Attorneys on the court appointed list must agree to the following:

1. Accept a case **only** if the following guidelines can be met:
 - A. Must meet with a defendant who is in jail within two working days.
 - B. Must meet with a defendant who is not in jail within 7 days.
 - C. Appear for all subsequent court dates (See [Section 7:7](#) below).
2. Review the defendant's case and determine the most appropriate pretrial action if the defendant is still in jail, such as:
 - A. Bond Reduction Motion.
 - B. Motion for Referral to Supervised Release (SRP).
 - C. Moving up the court date.
 - D. Forensics referral (mental health evaluation).
 - E. Last alternative is to let the defendant stay in jail to receive credit for time served.
3. If the defendant is in jail on a misdemeanor charge, set a goal to resolve the case within 20 days or no more than 30 days.
4. Submit the time sheet to the court clerk or judge **at the conclusion of the hearing** on the final court date so that the appropriate costs may be assessed the defendant.
5. Continue to represent the defendant in all subsequent non-compliant hearings or if the defendant chooses to appeal the decision to the Circuit Court. If appealed, the Circuit Court Clerk will notify the attorney of the trial date and will provide the attorney with appointment papers for the representation in Circuit Court.

7:5 Billing Procedures

A copy of the billing voucher (with a unique billing number) and time sheet are provided to the attorney at the time of assignment to the case. Compensation for court appointed counsel is a maximum of \$100 per case. The voucher billing number should be kept for future reference since this number will appear on the check stub when payment is received and may be the only identifying information provided. At the beginning of each month, the Court Services Division

provides each attorney with a computer printout that lists voucher billing numbers and other identifying information for all cases assigned to that attorney during the previous month. The monthly printouts should be picked up from the attorney's assigned "mailbox" in the Court Services Office.

It is extremely important that the time sheet be submitted at the conclusion of the case so that the clerk processing the case can immediately determine the amount the attorney is to be paid and assess costs against the defendant if the charge resulted in a conviction. While a time sheet is not required when assigned to a defendant charged with only one offense, **it is required** in the following instances:

- A. The amount claimed by the attorney is **less than \$100**. If a time sheet is not submitted, the attorney will automatically be paid \$100 and the defendant will be charged \$100 if the case resulted in a conviction.
- B. The defendant is charged with **multiple offenses**. If a time sheet is not submitted, the attorney will automatically be paid \$100 for the first three offenses and \$25 for each subsequent offense. **Late time sheets will not alter these amounts, unless the attorney claims less.** The defendant will be assessed \$100 per conviction up to the maximum allowed the attorney. In order for an attorney to claim the maximum \$100 per offense, the time sheet must be given to the clerk or judge at the conclusion of the case.
- C. The attorney wishes to **claim litigation expenses**. Any claims for expenses must be accompanied by receipts or other documents substantiating the claim. If telephone charges are claimed as expenses, a copy of the telephone bill must be attached and submitted with the time sheet. These expenses are subject to audit and review by the Supreme Court of Virginia, as well as the Auditor of Public Accounts.
- D. If an attorney is **replaced by retained counsel**, a time sheet must be submitted as soon as possible to the Clerk's Office to document any time spent on the case prior to the substitution of counsel. If a time sheet is not submitted prior to the conclusion of the case, the Court will assume the attorney never met with the client and the billing voucher will be marked "Void" and filed with the voucher records.

7:6 Payment

At the conclusion of the case, the clerk will determine the amount of fees allowed the attorney and assess costs against the defendant for any charge resulting in a conviction. The clerk will complete the billing voucher and forward it to the Clerk of Court or Chief Deputy Clerk for signature and processing.

The Administrative Secretary in Judges' Chambers is responsible for sending the vouchers to the appropriate jurisdiction for payment. If the defendant was charged under the State Code, the voucher will be submitted to the Supreme Court of Virginia for payment. If the defendant was charged under a local ordinance, the voucher will be submitted to the locality for payment.

It may take up to six to eight weeks for the responsible jurisdiction to make payment.

Questions concerning payment should be directed to Judges' Chambers located in Room 232 at 703-246-2153. For tracking purposes, the attorney will need to supply the defendant's name, charge(s), docket number, final court date, and the voucher billing number.

7:7 Subsequent Hearings Following Trial

If a defendant is ordered to return to court for a Show Cause hearing for noncompliance or to indicate why a suspended sentence should not be imposed, the attorney will be notified by the court clerk as a courtesy. The attorney should appear at the hearing and, if the defendant is determined to still be eligible for a court appointed attorney, the original attorney will be reappointed and will receive payment for the additional services on the Show Cause hearing. If the attorney cannot appear at the non-compliance hearing due to a prior commitment, a motion to withdraw as counsel should be filed with the Clerk's Office.

7:8 Substitution of Counsel

If a defendant retains counsel, the court appointed attorney shall be relieved of further responsibility and compensated for his services pro rata. This requires **timely filing of a time sheet to document services provided**. The time sheet must be filed in the Clerk's Office prior to conclusion of the case. Whenever a time sheet is filed before the final court date, the attorney must indicate the reason for early filing.

7:9 Requests for Withdrawal of Counsel

A court appointed attorney may seek the Court's permission to withdraw as counsel if the defendant has not appeared for several months or if counsel has been unable to make contact with the defendant. This usually occurs when a capias or Failure to Appear (FTA) warrant is outstanding and the officer has been unable to serve the warrant. If the judge grants the request to withdraw, the attorney should immediately file a time sheet with the Court if reimbursement for time or expenses is claimed. No payment will be allowed if a time sheet is not filed.

PART EIGHT
Directions to the Court & Maps

FAIRFAX COURT
4110 Chain Bridge Road, Fairfax, Virginia



Map to Fairfax Court

FROM VIRGINIA:

South - (Occoquan, Woodbridge, Dale City)

- take Rt. 95 NORTH or Rt. 1 NORTH to 495 SOUTH
- take Rt. 236, Little River Turnpike, WEST (exit 6W)
- go 4.4 miles into the City of Fairfax
- stay in left lane, traffic is one-way for two blocks on North Street
- cross Rt. 123, stay left to light at entrance of Public Safety Complex
- just past the tall Massey Bldg. is the 5-story, L-shaped Judicial Center.

(OR)

- go NORTH on Rt. 123 (approximately 8-10 miles)
- go past Fairfax City Hall on the right
- at next light, take left into Public Safety Complex on the right (Judicial Drive)
- Judicial Center is the 5-story, L-shaped building

West - (Manassas, Gainesville)

- take Rt. 66 EAST to Rt. 50 EAST
- stay in right lane and Rt. 50 runs into Rt. 236 at 4th traffic light
- go 6 more lights to Public Safety Complex on the right
- Judicial Center is 5-story, L-shaped building to left of tall Massey Bldg.

(OR)

- take Rt. 29 EAST, stay in right lane, bear right onto Rt. 236
- go 6 lights to Public Safety Complex on the right
- Judicial Center is 5-story, L-shaped building to left of tall Massey Bldg.

North - (Leesburg)

- take Greenway Toll Road to Rt. 28, SOUTH
- take Rt. 28 south to Rt. 50 EAST (approx. 10 miles to Fairfax City)
- stay in the right lane in Fairfax City and Rt. 50 runs into Rt. 236
- go 6 lights to Public Safety Complex on the right
- Judicial Center is 5-story, L-shaped building to left of tall Massey Bldg.

East - (Arlington, Falls Church)

- take Rt. 66 WEST to Fairfax-Vienna exit
- take the Fairfax portion of the exit heading SOUTH on Rt. 123
- after 4th light will see Public Safety Complex on your right
- Judicial Center is 5-story, L-shaped building to left of tall Massey Bldg.

FROM MARYLAND:

- take 495 SOUTH to Rt. 66 WEST
- from Rt. 66 take the Fairfax-Vienna exit
- take the Fairfax portion of the exit (bear left) heading SOUTH on Rt. 123
- after 4th traffic light will see Public Safety Complex on your right
- Judicial Center is 5-story, L-shaped building to left of tall Massey Bldg.

BY METRO:

- take the ORANGE line to Vienna Metro Station
- exit to the left at the top of the stairs (to the northern side of the station)
- take the Fairfax City CUE Bus (Gold, #1 is most direct) to the Fairfax County Judicial Center
 - CUE Bus fare is 50 cents, exact fare required
 - CUE Bus runs from 5:30 a.m. - 11:30 p.m., Monday through Friday
 - Gold CUE Bus #1 picks up at Vienna Metro beginning at 6:03 a.m., then every 30 minutes. The ride to the Judicial Center is approximately 20-30 minutes. To ensure timely arrival for 9:30 a.m. court sessions, take the Gold CUE Bus #1 from Vienna at 7:32 a.m., 8:01 a.m., or 8:31 a.m.
 - Call the Fairfax City CUE Bus System at 703-385-7859 for further information.

Parking is available in a public parking garage located directly behind the Judicial Center at a rate of 50 cents per hour.

HERNDON COURT
765 Lynn Street, Herndon, VA



Map to Herndon Court

From the Dulles Toll Road -

- take the HERNDON exit off the Dulles Toll Road onto ELDEN STREET going north towards town
- stay on Elden past the sharp curve
- turn LEFT at the stoplight onto STATION STREET
- you will see an old train caboose on your left. PARK there and walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Rt. 7 -

- turn at the stoplight onto Rt. 606, BARON CAMERON DRIVE. (Baron Cameron becomes ELDEN STREET in Herndon.)
- go approximately 6 miles into the center of town
- turn RIGHT onto STATION STREET for parking in the lot with the old train caboose
- walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Rt. 50 (West of Fair Oaks)

- turn north onto CENTREVILLE ROAD (Centreville Rd. becomes ELDEN STREET in Herndon.)
- stay on Elden Street past the sharp curve
- turn LEFT at the stoplight onto STATION STREET

- you will see an old train caboose on your left. PARK there and walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Fairfax County Parkway

- follow the Parkway until it ends in Herndon
 - turn RIGHT at the stoplight onto SPRING STREET
 - stay on Spring St. past the post office to stoplight at ELDEN STREET
 - turn LEFT at the stoplight onto Elden Street
 - turn RIGHT at the stoplight onto STATION STREET
 - you will see an old train caboose on your left. PARK there and walk to 765 LYNN STREET
 - court is held in the basement of the glass domed building which says "Herndon General District Court"
 - court convenes here on Wednesdays only at 9:30 a.m.
-

VIENNA COURT
127 South Center Street, Vienna, VA

Map to Vienna Court



North - (Tysons Corner, Rt. 7)

- take Rt. 123 SOUTH into Vienna
- go approximately 6 traffic lights in town, past Patrick Henry Library on left
- turn left onto South Center Street between library and Mobil gas station
- court is located immediately behind the Mobil station, on the right
- court convenes on Mondays only at 9:30 a.m.

South - (Fairfax, Woodbridge)

- take Rt. 123 NORTH into Vienna
 - go approximately 6 traffic lights in town
 - just past the Mobil gas station, take a right onto South Center Street
 - court is located immediately behind the Mobil station, on the right
 - court convenes on Mondays only at 9:30 a.m.
-

APPENDIX OF HANDOUTS AND FORMS INCLUDED IN THIS PUBLICATION

CIVIL

Handouts:

1. **Filing Civil Process - Guide to Forms and Copies Needed** (GDC-111) - This handout provides information on filing fees and Sheriff's service fees and the number of copies required to file various actions.
2. **Civil Judgment Checklist** - Default judgments are entered in the courtroom, however, they are always entered subject to the judge's review in chambers. All too often, judgments are vacated upon review because service is not proper or necessary documents have not been provided. This checklist explains some of the local requirements.
3. **So You've Won a Judgment - Now What?** - This handout is given to pro se plaintiffs at the time judgment is awarded to explain some of the options available for collecting their judgment.
4. **Garnishment Information** - Explains number of copies needed of the various garnishment forms, required fees, selecting a garnishment return date, proper service, how to compute interest, and what to do with the written answer.
5. **Procedures for Federal Government Garnishments** - Outlines the specific requirements for service when filing a garnishment against a federal government employee.

Forms:

6. **Contested Cases** (GDC-113) - This form is given to pro se parties in the courtroom at the time a trial date is selected if pleadings are required. On this form the clerk indicates the date for trial in Courtroom 2B and the due dates for the bill of particulars and the answer and grounds of defense.
7. **Request for Court Action - Civil Division** (GDC-53) - This is the civil praecipe used for requesting a continuance or dismissal of a civil action or for marking a judgment as satisfied as required by law.
8. **Notice of Satisfaction** (DC458) – Code §16.1-94.01 requires the judgment creditor to give written notice to the clerk within thirty days of receipt of payment or satisfaction of a judgment.

CRIMINAL/TRAFFIC

Forms Printed on NCR Paper (please obtain from Clerk's Office):

9. **Motion to Withdraw or Substitute Counsel** – 4-part NCR form.
Substitution of counsel should be filed with the Clerk's Office after signed agreement of all parties. *Withdrawal* of counsel requires a judge's signature and should be filed with the Clerk's Office and placed on the Motion's Docket, or provided to the judge at court hearing. If defendant was originally assigned *court appointed counsel*, then *retained* counsel must file this motion prior to court date in order for the defendant to avoid additional costs.
10. **Motion for Bond Reduction** – (GDC 30) 4-part NCR form. Prepared by the attorney and submitted to the appropriate Clerk's Office by 3:00 p.m. to be placed on the next day's 9:30 a.m. Motion's Docket. Attorney must deliver copies to Commonwealth's Attorney and Court Services.
11. **Criminal/Traffic Continuance Request** – There are various procedures governing continuance requests depending on the charge and the number of previous continuances. See Sections [3:15](#) and [5:12](#) of this publication, or ask the Clerk's Office.
12. **Subpoena Duces Tecum** – (DC-336) NCR paper – original + 3 copies.
Should be filed with the Clerk's Office at least 15 days prior to trial and made returnable to the 9:30 a.m. Motion's Docket if a hearing is required. **Agreed** orders may be dropped off in Judges' Chambers. After the judge has signed the order, it should be retrieved from the basket and returned to the appropriate Clerk's Office. A signed order will not require a hearing.
13. **Discovery Order** - 4-part NCR form. Discovery motions must be filed with the Clerk's Office at least 10 days prior to trial and should be returnable to the Court's 9:30 a.m. docket if a hearing is required. **Agreed** orders may be dropped off in the basket in Judges' Chambers. After the judge has signed the order, it should be retrieved from the basket and returned to the appropriate Clerk's Office. A signed order will not require a motion hearing.

Note: The above forms are on colored, multi-copy NCR paper, therefore, **copies** of these forms should not be used. Original forms may be obtained from the Criminal and Traffic Clerk's Offices.

Forms Available for Duplication: (also available in courtrooms and Clerk's Offices)

14. **Appearance of Counsel** – Pink form noting counsel of record. Prepared by attorney and submitted to Clerk's Office or judge at court hearing.

15. **Restricted Driver's License Application Worksheet** – Prepared in advance by attorney and submitted to the judge at the time of trial (or later by motion) when requesting a restricted driver's license. Judges will not consider the motion until the worksheet is complete.

OTHER FREQUENTLY REQUESTED HANDOUTS & FORMS

Below is a listing and description of other frequently requested handouts and forms used in the General District Court. They are not included in this publication, but may be requested in the Clerk's Offices located on the first and second floors of the Judicial Center.

CIVIL:

A Judgment Has Been Entered Against You – Now What? This handout is given to pro se defendants at the time judgment is awarded to explain payment and appeal procedures, as well as options that may be available to the plaintiff to collect on the debt.

Landlord/Tenant Practice – This handout was initially written for distribution at the Court's Landlord/Tenant Practice Orientation offered to the public twice a year. It includes specific information and code sections on many areas of landlord/tenant practice.

Writ of Possession in Unlawful Detainer – Pro se plaintiffs are given this handout at the time they are awarded a judgment for possession on an unlawful detainer. It explains the Writ of Possession process.

CRIMINAL/TRAFFIC:

Information on Attorney (IAD) Card – Provided to defendants at arraignment. The form must be returned to the Clerk's Office prior to the IAD date to ensure that defendant has retained counsel.

Motion for Competency (§19.2-169.x) – 3-part NCR form. Prepared by attorney (must select appropriate code section) and submitted to Clerk's Office by 3:00 p.m. to be placed on the next day's 9:30 a.m. Motion's Docket.

Transportation Order Request – Single sheet. Prepared by Clerk's Office at request of attorney, either by phone or at counter

Request for Copies – 3-part NCR form. Prepared by attorney and submitted to Clerk's Office. Requests involving more than one page usually require up to 72 hours for processing.

Requirements for Restricted Driver's License – Handout.

Court Order for Probation Supervision – Completed by Clerk's Office, with copy to defendant.

Referral Form for Community Service Agencies – Completed by Clerk's Office, with copy to defendant.

Restitution Order – 3-part NCR form available in courtrooms. Completed by parties and submitted for judge's approval, with a copy to both defendant and complainant. Must be submitted in every case involving unpaid restitution.

Plea of Guilty to a Misdemeanor – Forms provided in courtrooms. Completed by parties at preliminary hearing. Requires signature of defendant, defense counsel, Commonwealth's Attorney, and judge.

Circuit Court Trial Date Form for Prisoners – Used when prisoner's case is certified to grand jury after hearing or waiver. Forms provided in courtroom and completed by judge. Requires signature of Commonwealth's Attorney, defense counsel, and defendant.

Notice of Appeal – Criminal – NCR paper, requires original + 2 copies. Completed by Clerk's Office and defendant or defense counsel at time of appeal. Defendant must personally appear if a new or increased bond is required.

Notice to Defendants Requesting Jury Trials on Appeals – Handout.